2015

# Child Care Subsidy

## Regulations and Resources Manual

This training is sponsored by:

NEW YORK STATE | Office of Children and Family Services

With funding from: Administration for Children and Families (ACF) Office of Child Care

And administered by: Professional Development Program, Rockefeller College, University at Albany, State University of New York

Revised February 2015

2015

# Child Care Subsidy

## Regulations and Resources Manual

This training is sponsored by:

NEW YORK STATE | Office of Children and Family Services

With funding from: Administration for Children and Families (ACF) Office of Child Care

And administered by: Professional Development Program, Rockefeller College, University at Albany, State University of New York

Revised February 2015

PROFESSIONAL DEVELOPMENT PROGRAM
ROCKEFELLER COLLEGE UNIVERSITY AT ALBANY State University of New York


***Acknowledgement***

This material was developed by the Professional Development Program, Rockefeller College, University at Albany, under a training and administrative services agreement with the New York State Office of Children and Family Services.


***Disclaimer***

While every effort has been made to provide accurate and complete information, the Office of Children and Family Services and the State of New York assumes no responsibility for any errors or omissions in the information provided here and makes no representations or warranties about the suitability of the information contained here for any purpose. All information and documents are provided "as is," without a warranty of any kind.


Copyright © 2014 by The New York State Office of Children and Family Services

# Table of Contents

**Funding Sources ..... Tab 1**

| | |
|---|---|
| 14-OCFS-LCM-02 | *New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014-2015* |
| 14-OCFS-LCM-09 | *SFY 2014-15 Social Services Block Grant (Title XX) Allocations* |

**Child Care Subsidy Regulations ..... Tab 2**

| | |
|---|---|
| 18 NYCRR, Title 18, Part 415 | *Child Care Services* |
| 18 NYCRR, Title 18, Part 404 | *Determination and Redetermination of Eligibility* |

**Program Administration ..... Tab 3**

| | |
|---|---|
| 05-OCFS-ADM-03 | *Child Care Subsidy Program* |
| 14-OCFS-LCM-18 | *Guidelines and Instructions for Preparing the Child and Family Services Plan Update* |
| 14-OCFS-LCM-01 | *Website Postings of Changes to Child Care Services* |
| 13-OCFS-INF-04 | *Child Care Subsidy Program Improper Authorization for Payment Review* |
| 14-ADM-05 | *Automated Information Exchange Agreement Between OTDA, OCFS, DOH and DOL—Unemployment Insurance Benefit Information* |
| 10-LCM-17-T | *Use and Protection of Confidential Information* |
| 12-OCFS-INF-01 | *Sharing Confidential Client-Identifiable Information Between Child Protective Services (CPS) and Protective Services for Adults (PSA)* |

**Program Administration ..... Tab 3**

| | |
|---|---|
| 12-ADM-01 | *Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs* |
| 04-OCFS-ADM-01*<br>*Located in Tab 4* | *Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Families in Post-Secondary Education, No Application for Transitional Child Care* |

**Programmatic Eligibility ..... Tab 4**

| | |
|---|---|
| 91-ADM-34 | *Child Care: Reimbursement of Payments for Children with Special Needs* |
| Commissioner Letter | *Changes to the Law Regarding Child Care in Lieu of Temporary Assistance* |
| 02-OCFS-INF-01 | *Former Family Assistance Families Eligible for Transitional Child Care Guarantee* |
| 04-OCFS-ADM-01 | *Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Families in Post-Secondary Education, No Application for Transitional Child Care* |
| 14-ADM-04 | *Employment and Resource Exemption Changes Authorized by Chapter 58 of the Laws of 2014* |
| Memorandum | *Repeal of Child Support Requirement for Child Care Assistance, July 30, 2009* |
| 05-OCFS-ADM-03*<br>*Located in Tab 3* | *Child Care Subsidy Program* |
| 09-OCFS-LCM-07*<br>*Located in Tab 8* | *Training Programs for Dislocated Worker, One Time Disbursement under the American Recovery and Reinvestment Act of 2009, Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers* |

**Income Eligibility…….....Tab 5**

| | |
|---|---|
| 14-OCFS-INF-02 | *2014 Income Standards for the Child and Family Services Plan* |
| 14-OCFS-LCM-12 | *Excludable Income for Financial Eligibility for Child Care Subsidy* |
| 01-OCFS-INF-08 | *For Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee* |
| Commissioner Letter | *Sixty Day Notice Regarding Child Care Assistance* |
| 12-OCFS-LCM-03 | *Kinship Guardian Assistance Program Payments—Excludable Income for Child Care Subsidy Program Eligibility* |
| 07-OCFS-LCM-05 | *Adoption and Foster Care Subsidies: Excludable Income for Child Care Subsidy Eligibility* |
| 14-ADM-05*<br>*Located in Tab 3* | *Automated Information Exchange Agreement Between OTDA, OCFS, DOH and DOL—Unemployment Insurance Benefit Information* |

***Application and Documentation.....……..Tab 6***

| | |
|---|---|
| 05-INF-09 | *New Statewide "Common Application", LDSS-2921 Statewide (Rev. 1/05), New Statewide "How to Complete" publication, PUB-1301 Statewide (Rev. 1/05)* |
| 03-OCFS-INF-07 | *Application for Child Care Assistance* |
| 10-OCFS-INF-10 | *Law 191, Invalidating Puerto Rican Birth Certificates* |

**Client Notifications…….....Tab 7**

| | |
|---|---|
| 13-OCFS-LCM-04 | *Revised Client Notification Forms for Child Care Subsidy* |
| Memorandum | *Mandatory Child Care Notices Effective 5/15/04* |
| Client Notification Forms | *Client Notification Forms* |

**Payments…….....Tab 8**

| | |
|---|---|
| 14-OCFS-LCM-03 | *Child Care Market Rates 2014-2015* |
| Memorandum | *CSEA Fair Share Payments* |
| 11-OCFS-LCM-13 | *Child Care Provider Deduction of Union Dies/Fees in Social Services Districts Other Than New York City* |
| 09-OCFS-LCM-07 | *Training Programs for Dislocated Worker, One Time Disbursement under the American Recovery and Reinvestment Act of 2009, Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers* |
| 92-LCM-138 | *Child Care Certificate Program* |
| 04-OCFS-ADM-01*<br>*Located in Tab 4* | *Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Families in Post-Secondary Education, No Application for Transitional Child Care* |
| 91-ADM-34*<br>*Located in Tab 4* | *Child Care: Reimbursement of Payments for Children with Special Needs* |

**Fraud…….....Tab 9**

| | |
|---|---|
| 14-OCFS-LCM-04 | *Child Care Subsidy Fraud Regulations* |
| 02-OCFS-INF-05 | *Child Care Case Referrals to FEDS and EVR* |

**Legally-Exempt Child Care…….....Tab 10**

| | |
|---|---|
| 14-OCFS-INF-05 | *Revision of OCFS-LDSS-4700 Enrollment Form for Provider of Legally-Exempt Group Child Care* |
| 12-OCFS-LCM-01 | *Changes to the Legally-Exempt Child Care Provider Enrollment Process* |
| 03-OCFS-LCM-17 | *Legally-Exempt In-Home Child Care Providers as Employees* |

# Regulations and Resources Overview

## Tab 1: Funding Sources

### 14-OCFS-LCM-02*, New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014-2015*

The purpose of 14-OCFS-LCM-02, New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014-2015 is to inform social services districts of their allocations and maintenance of effort (MOE) levels for the New York State Child Care Block Grant (NYSCCBG) subsidy program for the period April 1, 2014 through March 31, 2015.

### 14-OCFS-LCM-09*, SFY 2014-15 Social Services Block Grant (Title XX) Allocations*

The purpose of 14-OCFS-LCM-09, SFY 2014-15 Social Services Block Grant (Title XX) Allocations is to provide local departments of social services (LDSS) with their Social Services Block Grant (Title XX) allocations for State Fiscal Year (SFY) 2014-15.

## Tab 2: Child Care Subsidy Regulations

### 18 NYCRR, Title 18, Part 415; *Child Care Services*

New York State Code, Rules and Regulations, Title 18, Part 415, Child Care Services, governs the authorization and payment of publicly funded child care services for children under any provision of the Social Services Law or the Federal Social Security Act.

### 18 NYCRR, Title 18, Part 404; *Determination and Redetermination of Eligibility*

New York State Code, Rules and Regulations, Part 404, Determination and Redetermination of Eligibility for Social Services, includes requirements that apply to eligibility determination for any of the services programs. Part 404 includes:

- The process of eligibility determinations
- Responsibility for eligibility determinations
- Verification of eligibility determinations
- Fees for services
- Authorization for services

# Tab 3: Program Administration

### 05-OCFS-ADM-03, *Child Care Subsidy Program*

The purpose of 05-OCFS-ADM-03, Child Care Subsidy Program is to inform social services districts of the changes in the requirements for child care subsidies funded through the New York State Child Care Block Grant (NYSCCBG) and Title XX of the Federal Social Security Act. Additionally, this Administrative Directive included requirements of the child care subsidy program not issued previously in an Administrative Directive or Local Commissioner's Memorandum.

### 14-OCFS-LCM-18, *Guidelines and Instructions for Preparing the Child and Family Services Plan Update*

The purpose of this Local Commissioners Memorandum (LCM) is to provide guidance to local departments of social services (LDSS) for the completion of the required annual Plan Update (APU) for the county Child and Family Services Plan (CFSP). These guidelines are also being shared with county youth bureaus and county probation departments. The APU is due January 31, 2015.

Through this APU, counties will report on any changes being implemented in their current CFSP, and make any necessary changes to the CFSP for the remaining period of their plan. County youth bureaus and local departments of social services (LDSS) are required by statute to develop and submit to New York State local multi-year plans for the provision of services and the allocation of resources, including the required Persons in Needs of Supervision (PINS) Diversion Plan that is developed by LDSSs, county youth bureaus, and county probation departments.

### 14-OCFS-LCM-01, *Website Postings of Changes to Child Care Services*

The purpose of 14-OCFS-INF-01, Website Postings of Changes to Child Care Services is to advise social services districts (districts) of a new public notice requirement when a district proposes an amendment to the child care portion of its Child and Family Services Plan (CFSP) that reduces eligibility or increases the family share percentage and when a district implements its child care case closing process under its approved CFSP.

### 13-OCFS-INF-04, *Child Care Subsidy Program Improper Authorization for Payment Review*

The purpose of 13-OCFS-INF-04 is to inform local social services districts (districts) of the results of a comprehensive review of child care subsidy cases that was performed by the Office of Children and Family Services (OCFS), Office of Audit and Quality Control (AQC) during 2012, and to help prepare districts for the next review.

# Tab 3: Program Administration

### 14-ADM-05, *Automated Information Exchange Agreement Between OTDA, OCFS, DOH and DOL—Unemployment Insurance Benefit Information*

A Memorandum of Understanding (MOU) was signed by the New York State Office of Temporary and Disability Assistance (OTDA), the New York State Department of Health (DOH), the New York State Office of Children and Family Services (OCFS) and the New York State Department of Labor (DOL) (hereafter "the Agencies") in August 2012. This MOU agreed to continue an automated information exchange of Unemployment Insurance (UI) claim information in order to verify eligibility for benefits, conduct fraud investigations, and for the purposes of maintaining program integrity and quality control in the following covered programs: Temporary Assistance to Needy Families (TANF), Safety Net Assistance (SNA), Medicaid, Home Energy Assistance Program (HEAP), Supplemental Nutrition Assistance Program (SNAP) (formally Food Stamps) and the Child Care Subsidy Program (CCSP).

### 10-LCM-17-T, *Use and Protection of Confidential Information*

The purpose of this Local Commissioners Memorandum (LCM) is to remind local departments of social services (local districts) of the requirement to assure appropriate protection, access to, and disclosure of confidential information maintained in State and County systems/databases.

### 12-OCFS-INF-01, *Sharing Confidential Client-Identifiable Information Between Child Protective Services (CPS) and Protective Services for Adults (PSA)*

The purpose of this release is to provide guidance to local departments of social services (LDSS) as to permissible means for the sharing of client-identifiable information between Child Protective Services (CPS) and Protective Services for Adults (PSA) units of an LDSS.

### 12-ADM-01, *Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs*

The purpose of this ADM is to convey to Social Services Districts their responsibilities required by SSL 392 and provide Social Services Districts with the information that is needed to meet this responsibility.

# Tab 4: Programmatic Eligibility

### 91-ADM-34, *Child Care: Reimbursement of Payments for Children with Special Needs*

A Memorandum of Understanding (MOU) was signed by the New York State Office of Temporary and Disability Assistance (OTDA), the New York State Department of Health (DOH), the New York State Office of Children and Family Services (OCFS) and the New York State Department of Labor (DOL) (hereafter "the Agencies") in August 2012. This MOU agreed to continue an automated information exchange of Unemployment Insurance (UI) claim information in order to verify eligibility for benefits, conduct fraud investigations, and for the purposes of maintaining program integrity and quality control in the following covered programs: Temporary Assistance to Needy Families (TANF), Safety Net Assistance (SNA), Medicaid, Home Energy Assistance Program (HEAP), Supplemental Nutrition Assistance Program (SNAP) (formally Food Stamps) and the Child Care Subsidy Program (CCSP).

### Commissioner Letter, *Changes to the Law Regarding Child Care in Lieu of Temporary Assistance*

The purpose of this Commissioners letter is to inform social service districts of changes in section 410-w of Social Services Law which impacts families who are eligible for child care in lieu of temporary assistance.

### 02-OCFS-INF-01, *Former Family Assistance Families Eligible for Transitional Child Care Guarantee*

The purpose of 02-OCFS-INF-01, Former Family Assistance Families Eligible for Transitional Child Care Guarantee, is to advise social services districts of the potential eligibility of former Family Assistance (FA) recipients for the Transitional Child Care (TCC) guarantee. Some FA families have already or will soon reach their State 60-month time limit of cash assistance.

### 04-OCFS-ADM-01, *Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Families in Post-Secondary Education, No Application for Transitional Child Care*

The purpose of 04-OCFS-ADM-01, Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Family in Post-Secondary Education, No Application for Transitional Child Care, describes amendments to the Social Services Law (SSL) section 410-w regarding eligible families under the New York State Child Care Block Grant (NYSCCBG).

## Tab 4: Programmatic Eligibility

### 14-ADM-04, *Employment and Resource Exemption Changes Authorized by Chapter 58 of the Laws of 2014*

The purpose of this Administrative Directive (ADM) is to inform districts of changes to the sections 131-n, 335-a, 336, and 336-a of SSL as authorized by Chapter 58 of the Laws of 2014 and to provide information to assist districts to identify adjustments in local procedures that may be necessary to implement these changes. Changes include amendments to expand temporary assistance work activities to include up to four years of post-secondary education (or its part time equivalent).

### Memorandum, *Repeal of Child Support Requirement for Child Care Assistance, July 30, 2009*

The purpose of the OCFS local district commissioner's memorandum dated July 30, 2009 is to advise social services districts that Social Service Law has been amended to repeal the requirement that the child's caretaker must demonstrate that he or she is actively pursuing child support.

## Tab 5: Income Eligibility

### 14-OCFS-INF-02, *2014 Income Standards for the Child and Family Services Plan*

The purpose of 14-OCFS-INF-02, 2014 Income Standards for the Child and Family Services Plan is to transmit the 2014 income standards to be used in determining eligibility for services. These income standards are effective June 1, 2014 through May 31, 2015.

### 14-OCFS-LCM-12, *Excludable Income for Financial Eligibility for Child Care Subsidy*

The purpose of this Local Commissioners Memorandum is to advise social services districts (districts) about an amendment to Social Services Law (SSL) 410-w regarding the treatment of earned income of a child under the age of 18 when determining the eligibility of a household for a child care subsidy.

# Tab 5: Income Eligibility

### 01-OCFS-INF-08, *Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee*

The purpose of 01-OCFS-INF-8, *Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee* is to provide guidelines for the provision of guaranteed child care services for the former CAP families who have reached five-year cash time limits and are found to be income ineligible for Safety Net Assistance non-cash benefits.

### Commissioner Letter, *Sixty Day Notice Regarding Child Care Assistance*

The purpose of this Commissioner Letter is to inform Social Services Districts of the new provisions outlined in SSL §34-a, which took effect January 1, 2015, regarding the amount of notice a district must provide to the Office of Children and Family Services (OCFS) when the district plans to lower eligibility levels or increase its co-payment multiplier, with regard to child care assistance.

### 12-OCFS-LCM-03, *Kinship Guardian Assistance Program Payments—Excludable Income for Child Care Subsidy Program*

The purpose of this Local Commissioners Memorandum (LCM) is to establish a formal policy regarding the calculation of countable income for families in receipt of Kinship Guardianship Assistance Program (KinGAP) payments and to notify social services districts of this policy.

In an effort to support relative guardians, as well as to support the broader efforts of permanency for children, social services districts are directed to exclude KinGAP payments when calculating family gross income and eligibility for the child care subsidy program.

### 07-OCFS-LCM-05, *Adoption and Foster Care Subsidies: Excludable Income for Child Care Subsidy Eligibility*

The purpose of 07-OCFS-LCM-05, Adoption and Foster Care Subsidies: Excludable Income for Child Care Subsidy Program Eligibility, is to establish a formal policy regarding the calculation of countable income for families in receipt of adoption and foster care subsidies and to notify social services districts of this policy.

## Tab 6: Application and Documentation

### 05-INF-09, *New Statewide "Common Application", LDSS-2921 Statewide (Rev. 1/05), New Statewide "How to Complete" publication, PUB-1301 Statewide (Rev. 1/05)*

The purpose of 05-INF-09, New Statewide "Common Application", LDSS 2921 State (Rev. 1/05) and New Statewide "How To Complete" publication, PUB-1301 Statewide (Rev.1/05), is to combine both Upstate and New York City versions into one Statewide "Common Application" and associated "How to Complete" publication. In addition, many enhancements were made to improve the forms' functionality.

### 03-OCFS-INF-07, *Application for Child Care Assistance*

The purpose of 03-OCFS-INF-07, Application For Child Care Assistance, is to inform social services districts that a local equivalent to the common application has been approved for use in a number of counties seeking to simplify access to the child care subsidy program.

### 10-OCFS-INF-10, *Law 191, Invalidating Puerto Rican Birth Certificates*

The purpose of this INF is to provide social service districts and voluntary authorized agencies with information related to action by the government of Puerto Rico, enacting Law 191 of 2009 invalidating Puerto Rican birth certificates effective October 1, 2010.

## Tab 7: Client Notifications

### 13-OCFS-LCM-04, *Revised Client Notification Forms for Child Care Subsidy*

The purpose of the Local Commissioners Memorandum (LCM) is to issue revised forms that must be used by local department of social services (LDSS) to provide notifications to public assistance and low-income clients on actions related to their applications for a child care subsidy and/or child care subsidy benefits. This notification is required by Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Parts 358, 404, and 415. This LCM replaces 01-OCFS-LCM-08, dated August 1, 2001. Local equivalents of the required forms must be approved by the Bureau of Early Childhood Services prior to their use.

## Tab 7: Client Notifications

### Memorandum, *Mandatory Child Care Notices Effective 5/15/04*

The purpose of the memorandum *Mandatory Child Care Notices, Effective 5/15/04,* is to inform the social services districts of the issuance of revised forms that must be used by social services districts to provide notification to clients on actions related to his or her application for child care subsidy benefits as required by Title 18 of the NYCRR Part 358, 404, and 415. It also provides the definition of adequate and timely notice, and when it applies.

### Client Notification Forms

Samples of the following Client Notification Forms are included:

- Approval of Your Application for Child Care Benefits
- Denial of Your Application for Child Care Benefits
- Notice of Intent to Change Child Care Benefits
- Notice of Intent to Discontinue Child Care Benefits
- Delinquent Family Share Model Form
- Child Care Eligibility Re-Determination Coming Due
- Notice of Child Care Assistance Overpayment and Repayment Requirements
- Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan

## Tab 8: Payments

### 14-OCFS-LCM-03, *Child Care Market Rates 2014-2015*

The purpose of this release is to advise social services districts of the filing of revised regulations related to the market rates and the maximum reimbursements for expenditures for child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). These changes to Title 18 of the New York Codes, Rules and Regulations (NYCRR) Section 415.9 were filed as an emergency rule as well as a notice of proposed rule-making and were effective April 1, 2014. Districts were previously notified in 14-OCFS-INF-01, issued on February 19, 2014, about the revisions to the child care market rates. The regulations were adopted as a final rule on April 30, 2014.

### Memorandum, *CSEA Fair Share Payments*

The purpose of this memorandum is to inform Social Services Districts of changes to the collection of CSEA fair share payments.

## Tab 8: Payments

### 11-OCFS-LCM-13, *Child Care Provider Deduction of Union Dies/Fees in Social Services Districts Other Than New York City*

The purpose of this Local Commissioners Memorandum is to inform social services districts (SSD), other than New York City (NYC), of the implementation of the deduction of union dues/fees from child care subsidy payments made to providers of family day care, group family day care, legally-exempt in-home and legally-exempt family child care.

### 09-OCFS-LCM-07, *Training Programs for Dislocated Worker, One Time Disbursement under the American Recovery and Reinvestment Act of 2009, Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers*

The purpose of this release is to advise social services districts of the revised regulations related to the market rates and the maximum reimbursement for expenditures for all child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). This LCM contains very important instructions on how payment amounts are determined.

### 92-LCM-138, *Child Care Certificate Program*

The purpose of 92-LCM-138, *Child Care Certificate Program,* is to provide social services districts with instructions relative to the implementation of a child care certificate program. Note that the use of child care certificates is a Federal requirement.

## Tab 9: Fraud

### 14-OCFS-LCM-04, *Child Care Subsidy Fraud Regulations*

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (districts) of the regulatory changes to Part 415 of the Rules and Regulations of the State of New York (NYCRR) for child care subsidies funded though the New York State Child Care Block Grant (NYSCCBG) and the federal Social Security Act.

The Child Care Subsidy Fraud Regulations, which went into effect October 5, 2011, promote the fiscal integrity of the child care subsidy program by establishing a clear, regulatory basis for holding child care providers accountable for committing fraud.

## Tab 9: Fraud

### 02-OCFS-INF-05, Child Care Case Referrals to FEDS and EVR

The purpose of this informational letter is to inform social services districts of their ability to refer applicants to be funded under the New York State Child Care Block Grant (NYSCCBG) to their Front End Detection System (FEDS) or Eligibility Verification Review (EVR) programs. Additionally, districts have the ability to refer NYSCCBG applicants and recipients to other fraud and abuse control programs that may be instituted in the district and have appropriate costs distributed and reimbursed with NYSCCBG funds.

## Tab 10: Legally-Exempt Child Care

### 14-OCFS-INF-05, *Revision of OCFS-LDSS-4700 Enrollment Form for Provider of Legally-Exempt Group Child Care*

The purpose of this Informational Letter is to inform local social services districts (LSSD) that the New York State Office of Children and Family Services (OCFS) has revised the OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care.

### *12-OCFS-LCM-01, Changes to the Legally-Exempt Child Care Provider Enrollment Process*

The purpose of this Local Commissioners Memorandum (LCM) is to inform the Social Services Districts (districts) of changes in the Legally-Exempt Child Care Provider (LECCP) enrollment process and of planned enhancements to the Child Care Facility System (CCFS) that will impact district procedures. This LCM also clarifies the districts' roles and responsibilities in the enrollment of LECCPs for the purpose of providing child care subsidized by the New York State Child Care Block Grant (NYSCCBG).

### 03-OCFS-LCM-17, *Legally-Exempt In-Home Child Care Providers as Employees*

The purpose of 03-OCFS-LCM-17, In-Home Child Care Providers As Employers, is to inform local social services districts of a ruling by a Territorial Office of the United States Internal Revenue Service (IRS) that may have widespread employment tax ramifications for local departments of social services.

# 14-OCFS-LCM-02
# *New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014-2015*

The purpose of 14-OCFS-LCM-02, *New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014-2015* is to inform social services districts of their allocations and maintenance of effort (MOE) levels for the New York State Child Care Block Grant (NYSCCBG) subsidy program for the period April 1, 2014 through March 31, 2015.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-02 |
| **To:** | Local Department of Social Services Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services<br>Division of Administration |
| **Date:** | April 30, 2014 |
| **Subject:** | **New York State Child Care Block Grant Subsidy Program Allocations for State Fiscal Year 2014 - 2015** |
| **Attachments:** | A: New York State Child Care Block Grant Local Department of Social Services Allocations<br>B: Maintenance of Effort Level |
| **Attachment Available Online:** | Yes, as part of this policy (14-OCFS-LCM) at http://ocfs.state.ny.us/main/policies/external |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform Local Department of Social Services (LDSS) of their allocations and maintenance of effort (MOE) levels for the New York State Child Care Block Grant (NYSCCBG) subsidy program for the period April 1, 2014 through March 31, 2015. This LCM also explains the allowable uses for these federal and State funds. The NYSCCBG appropriation for LDSSs for the period April 1, 2014 through March 31, 2015, State Fiscal Year (SFY) 2014-15 is $794,071,409, which is a $55 million increase over SFY 2013-14.

## II. Background

In order to participate in the NYSCCBG subsidy program, the commissioner of the

LDSS must agree to comply with the program requirements of the NYSCCBG, as set forth in Title 5-C of Article 6 of the Social Services Law; Title 18 of the New York State Code of Rules and Regulations (18 NYCRR) Parts 358, 404, 405, 407, 415, and 628; and Office of Children and Family Services (OCFS) policy directives, including Administrative Directives (ADMs), LCMs, and Informational Letters (INFs). Title 5-C of Article 6, under Section 410-x (4.), requires OCFS to establish in regulation the applicable market-related payment rates that will establish the ceilings for State and federal reimbursement for payments made under the NYSCCBG. The amount to be paid or allowed for child care assistance funded under the NYSCCBG and under Title XX shall be the actual cost of care but no more than the applicable rate established in regulations. LDSSs must pay the applicable market rate unless the actual cost of care is less, in which case LDSSs must pay the actual cost of care. The LDSS also must agree to comply with the requirements for the federal Child Care and Development Fund (CCDF). LDSSs provide such legal assurances as part of the Child and Family Services Plans they submit to OCFS.

## III. Program Implications

### ALLOCATION INFORMATION

Attachment A provides LDSS allocations for the NYSCCBG subsidy funds for the period beginning April 1, 2014 and ending March 31, 2015. The allocations are listed for two six-month periods to reflect the Federal Fiscal Year (FFY), which differs from the SFY. The lists show allocations for the period April 1, 2014 to September 30, 2014, the last half of FFY 2013-14, and for the period October 1, 2014 to March 31, 2015, the first half of the FFY 2014-15. Previously, 13-OCFS-LCM-06, dated May 29, 2013, notified LDSSs of their NYSCCBG allocations for the first half of FFY 2013-14, October 1, 2013 to March 31, 2014. Any unspent funds allocated for that period will be carried into and be available for the period ending September 30, 2014. Any portion of a LDSS's NYSCCBG allocation for FFY 2013-14 (October 1, 2013 through September 30, 2014) that is not claimed by the LDSS by March 31, 2015, will remain available to the LDSS through the end of FFY 2014-15, which is September 30, 2015. This would include any Temporary Assistance to Needy Families (TANF) funds transferred from a LDSS's SFY 2014-15 Flexible Fund for Family Services (FFFS) allocation for the period April 1, 2014 to September 30, 2014. However, claims for expenditures for the period October 1, 2013 through September 30, 2014 cannot be rolled forward into the next FFY.

The allocation methodology for SFY 2014-15 reflects each LDSS's proportionate share of the block grant funds based on the average level of annual child care claims for FFY 2008-09 through FFY 2012-13. Rollover of unspent NYSCCBG funds is taken into account for those LDSSs that meet the following two criteria:

- If the LDSS's FFY 2012-13 rollover into FFY 2013-14 is more than 15 percent of its FFY 2012-13 NYSCCBG claims; AND
- The LDSS's FFY 2012-13 rollover amount exceeded 75 percent of its FFY 2011-12 rollover amount.

For any LDSS meeting both of these criteria, the base allocation is first reduced by an amount equal to 40 percent of the rollover amount from FFY 2012-13 into FFY 2013-14 (but not to exceed the five-year-average-claim base allocation).

The statewide allocation reduction is then redistributed among LDSSs as follows. For LDSSs whose FFY 2012-13 NYSCCBG claims exceeded the sum of their SFY 2014-15 base allocations (as adjusted) and FFY 2012-13 rollover amounts, the amount of allocation reduction is redistributed on a pro-rated basis, proportionate to counties' share of the total excess claims. The sum of each LDSS's five-year-average-claim base allocation, allocation reduction and redistribution is its final SFY 2014-15 allocation.

While the NYSCCBG allocation is the primary resource available to LDSSs in meeting their child care subsidy needs for low-income families and individuals on public assistance, all LDSSs have the ability to use additional funds from the FFFS for child care subsidy costs. The SFY 2013-14 Enacted Budget continues to appropriate $964 million of TANF funding for the FFFS. Under the FFFS, districts have the option to transfer a portion of their FFFS allocation to the Child Care and Development Block Grant (CCDBG). Federal law requires that any FFFS funding transferred to the CCDBG must be used for families and individuals with incomes below 200 percent of the federal poverty level. Consistent with federal statute, a statewide total of 30 percent of the State's total TANF funds may be transferred to the CCDBG and/or to the Title XX Social Services Block Grant, with an upward statewide limit of 10 percent for the Title XX transfer. Under Chapter 53 of the Laws of 2014, for SFY 2014-15, an LDSS may transfer up to 32 percent of its FFFS allocation to the CCDBG and Title XX combined, with up to 25 percent of its FFFS allocation going to Title XX. Any FFFS funding an LDSS chooses to use for child care must be transferred to the CCDBG and not claimed as a direct charge to TANF funding. In addition, local share requirements for child care subsidies paid on behalf of public assistance recipients and the local MOE are unchanged.

As was the case in SFY 2013-14, LDSS that have fully expended their allocation and have met their MOE may seek 50 percent federal reimbursement through the Supplemental Nutrition Assistance Program Employment & Training (SNAP E&T) formerly known as Food Stamp Employment and Training (FSET), dependent care funds. All SNAP E&T claims must be submitted to the New York State Office of Temporary and Disability Assistance (OTDA) by March 31, 2015. Further information about eligibility and claiming for FFY 2013-14 will be forthcoming shortly in an LCM from OTDA.

Each LDSS may expend, for administrative activities, no more than five percent of its NYSCCBG allocation, including any funds transferred from FFFS. Administrative activities do not include the costs of providing direct services such as eligibility determinations and re-determinations; preparation and participation in judicial hearings; child care placements; the recruitment, licensing, inspection, review and supervision of child care placements; rate setting for contract development; resource and referral services; training; or the establishment and maintenance of computerized child care information systems.

An LDSS, at its option, may make payments for eligible families for transportation to and from a child care provider. An LDSS will be reimbursed for transportation expenses charged by a child care provider that are separate and apart from the regular rate charged by the provider. Also, the LDSS may make arrangements using other providers of transportation services. Expenditures for transportation are reimbursed as a program cost under the LDSS's NYSCCBG allocation if the provision of transportation services is included in the LDSS's Child and Family Services Plan.

**ELIGIBLE FAMILIES**

There are three broad categories of families eligible for child care services under the NYSCCBG when such care is not otherwise available from the caretaker(s) of the child in need of services. Eligible families are defined in 18 NYCRR Section 415.2. LDSSs are required to include this information in the LDSSs' Child and Family Services Plans, including those families that the LDSSs have chosen to serve and prioritize under the second and third categories listed below.

The first category is families that are eligible for a child care guarantee.

The second category is families that are eligible if funds are available. This category includes such families as low-income working families and teen parents who are completing high school.

The third category is families that are eligible if funds are available and if the LDSS includes them as eligible families in the child care section of the Child and Family Services Plan.

**PARENTAL CHOICE**

LDSSs must inform parents or caretakers requesting NYSCCBG services that they may:

- choose to have care provided by one of the child day care providers with whom the LDSS has contracted for the provision of child care services; or
- request a child care certificate, which enables the parents or caretakers to select from a full range of child care arrangements, including care by regulated child care providers and providers of legally exempt child care.

The child's parents or caretakers must be given discretion in selecting or arranging for the purchase of child care services from any eligible provider. The case record should document that parents or caretakers have been apprised of the full range of providers eligible for payment and of their right to elect to use a child care certificate. LDSSs must allow parents to select, and must have a method to pay, any and all legal providers with whom they do not contract. A contract may not be made a condition of receiving payment from NYSCCBG funds.

**REIMBURSEMENT**

Claims for expenditures for child care services for families receiving public assistance will be reimbursed at 75 percent with NYSCCBG funds, up to the LDSS's NYSCCBG allocation ceiling. Claims for expenditures for child care for all other eligible families will be reimbursed at 100 percent with NYSCCBG funds, as long as the LDSS's MOE is met, up to the LDSS's NYSCCBG allocation ceiling.

**MAINTENANCE OF EFFORT**

LDSSs must maintain local spending for child care services at a level established by OCFS in accordance with State statute. The MOE for each LDSS is listed in Attachment B. Note that the MOE has not changed from the previous year.

The MOE was calculated by totaling the LDSS share of expenditures in FFY 1994-95 for child care services claimed under the following categories: State Low Income Day Care program and administrative costs, Transitional Child Care, At-Risk Low Income Child Care, CCDBG, Emergency Assistance to Families, JOBS-related child care and employment-related child care. In addition, the MOE for those LDSSs participating in the Child Assistance Program (CAP) was adjusted to reflect the LDSS share for FFY 1996-97 CAP child care expenditures included in their NYSCCBG allocations.

Each LDSS must meet its MOE level in cash in FFY 2013-14 and in each subsequent FFY. The MOE is met by the 25 percent local share of claims for expenditures for public assistance recipients, as reported on Schedule H "Non-Title XX Services for Recipients," and any other non-Title XX expenditures that are allowable but not reimbursed under the LDSS's NYSCCBG allocation. Claims submitted under NYSCCBG will be processed to ensure that the LDSS's MOE requirement is met. Claims for administrative costs exceeding the five percent administrative cap will not count toward meeting the MOE and will not be eligible for federal and State reimbursement.

**SYSTEMS INFORMATION**

Procedures for the authorization of payment for child care services in the Welfare Management System (WMS) are as follows:

For child care payments for eligible families applying for or receiving public assistance, LDSSs can continue to use the DSS-3209 IM/WMS Authorization for child care payments for eligible families applying for or receiving public assistance. LDSSs may, at their option, use the DSS-2970, WMS Services Authorization, to authorize payment for child care for public assistance families. Purchase of Service Type Suffix Code (Data Element #23021) value "S-Block Grant DC 75%" designates child care services funded under the NYSCCBG for public assistance applicants/recipients and reimbursed at 75 percent federal and State share, up to the LDSS's allocation ceiling.

LDSSs have the option to authorize payments for child care for NYSCCBG-eligible families not in receipt of public assistance on the DSS-3209 for Food Stamps and Medical Assistance-only cases.

For all other eligible families, LDSSs must authorize payment in WMS/Services by using Purchase of Service Type Suffix Code value "R-Block Grant DC 100%" on the DSS-2970 WMS Services Authorization, which designates child care services funded under NYSCCBG for non-public assistance families and reimbursed at 100 percent federal and State share, up to the LDSS's allocation ceiling.

In circumstances of an adult-only public assistance case in which the children are not included in the public assistance filing unit, child care payment is authorized as a public assistance family and reimbursed at 75 percent federal and State share. For cases in which children are in receipt of public assistance but the caretaker is not included in the public assistance filing unit, child care is authorized in WMS Services and reimbursed at 100 percent federal and State share, up to the LDSS's allocation ceiling.

WMS Services continues to support the monitoring of the issuance and return of child care certificates. Instructions for the child care certificate are included in 92 LCM-138 and in the BICS Operations Manual, page A-62, BICS Production Request 32, Request for Self-Selected Day Care Certs, in the edition dated April 1, 2005. Information is also provided in the BICS Services Payment Processing Manual, Chapter 2, Authorizations, Self-Selected Day Care Certificates.

**CLAIMING INSTRUCTIONS**

NYSCCBG expenditures for child care subsidies for families receiving public assistance are claimed on Schedule H, Non-Title XX Services for Recipients (LDSS-4283), line 2 (Day Care Services for Children), column 14 (Day Care Block Grant 75 percent). NYSCCBG program expenditures for child care subsidies for all other eligible families are claimed on Schedule H, line 2, column 13 (Day Care Block Grant 100 percent). Please refer to the Fiscal Reference Manual, Volume 2, Chapter 3 for detailed instructions for completing the Schedule H.

NYSCCBG child counts and expenditures also must be reported on the Schedule G-2, Summary of All Payments for Day Care (LDSS-2109EL.) Expenditures made under the services types allowed must be reported on the Schedule G-2, via the Automated Claiming System. The BICS Schedule G-2 report provides the information needed to file the report. Please refer to the Fiscal Reference Manual, Volume 2, Chapter 3 for Schedule G-2 instructions.

Administrative expenditures for the NYSCCBG are claimed in accordance with the Services RMS as Child Care Block Grant costs on line 6, section 1A (associated A-87 costs are claimed on line 4, section 2) of the Schedule D-2, Allocation for Claiming General Services Administration Expenditures (LDSS-2347B). Instructions for completing the Schedule D-2 are contained in Chapter 9 of Volume 3 of the Fiscal Reference Manual County Cost Allocation Plan.

Claiming instructions for LDSS administrative expenditures related to the training of employees, which are claimed on the Schedule D-6 "Reimbursement Claim For Training" (LDSS-2347-C) for the NYSCCBG program, are covered in Chapter 13 of Volume 3 of the Fiscal Reference Manual for all LDSSs.

Fiscal Reference Manuals are available at:

FRM Vol. 2 – http://otda.state.nyenet/bfdm/finance/FRM_Vol2_Manual.asp
FRM Vol. 3 – http://otda.state.nyenet/bfdm/finance/FRM_Vol3_Manual.asp

**CONTACT PERSONS**

If you have any program questions regarding information contained in this LCM, contact Joe Ziegler of the Division of Child Care Services at (518) 402-6520; Joe.Ziegler@ocfs.ny.gov

If you have any claiming questions regarding information contained in this LCM, contact the Office of Temporary and Disability Assistance (OTDA) Bureau of Financial Services:

Regions 1 -5 – Edward Conway at 1-800-343-8859, ext. 4-7549, or (518) 474-7549; Edward.Conway@otda.ny.gov

Region 6 - Michael Simon at (212) 961-8250; Michael.Simon@otda.ny.gov

If you have WMS/Services questions, contact Tina McCarthy of OCFS IT Operations at 800-342-3727; Tina.McCarthy@ocfs.ny.gov

If you have WMS/IM questions, contact Bob Markham of OTDA at (518) 474-8753; Bob.Markham@otda.ny.gov

**Issued By:**

*/s/ Derek J. Holtzclaw*

Derek J. Holtzclaw
Associate Commissioner for
Financial Management
Division of Administration

*/s/ Janice M. Molnar*

Janice M. Molnar

Deputy Commissioner
Division of Child Care Services

# ATTACHMENT A
## NEW YORK STATE CHILD CARE BLOCK GRANT
### SOCIAL SERVICES DISTRICT ALLOCATIONS
### 4/1/2014-3/31/2015

| LDSS | April 1, 2014 September 30,2014 | October 1, 2014 March 31, 2015 | Final SFY 2014-15 Allocation |
|---|---|---|---|
| Albany | $6,332,549 | $6,332,548 | $12,665,097 |
| Allegany | $280,759 | $280,758 | $561,517 |
| Broome | $2,028,691 | $2,028,691 | $4,057,382 |
| Cattaraugus | $955,395 | $955,394 | $1,910,789 |
| Cayuga | $865,873 | $865,873 | $1,731,746 |
| Chautauqua | $2,100,219 | $2,100,218 | $4,200,437 |
| Chemung | $1,790,131 | $1,790,130 | $3,580,261 |
| Chenango | $303,172 | $303,171 | $606,343 |
| Clinton | $480,035 | $480,035 | $960,070 |
| Columbia | $647,212 | $647,212 | $1,294,424 |
| Cortland | $531,440 | $531,440 | $1,062,880 |
| Delaware | $639,855 | $639,854 | $1,279,709 |
| Dutchess | $3,496,680 | $3,496,679 | $6,993,359 |
| Erie | $12,168,422 | $12,168,421 | $24,336,843 |
| Essex | $196,308 | $196,308 | $392,616 |
| Franklin | $469,488 | $469,487 | $938,975 |
| Fulton | $272,659 | $272,658 | $545,317 |
| Genesee | $525,825 | $525,825 | $1,051,650 |
| Greene | $256,738 | $256,737 | $513,475 |
| Hamilton | $0 | $0 | $0 |
| Herkimer | $470,992 | $470,992 | $941,984 |
| Jefferson | $986,081 | $986,080 | $1,972,161 |
| Lewis | $154,512 | $154,511 | $309,023 |
| Livingston | $596,225 | $596,225 | $1,192,450 |
| Madison | $420,779 | $420,778 | $841,557 |
| Monroe | $18,129,700 | $18,129,699 | $36,259,399 |
| Montgomery | $351,824 | $351,824 | $703,648 |
| Nassau | $22,032,665 | $22,032,665 | $44,065,330 |
| Niagara | $1,133,799 | $1,133,799 | $2,267,598 |
| Oneida | $3,323,115 | $3,323,114 | $6,646,229 |
| Onondaga | $8,168,477 | $8,168,476 | $16,336,953 |
| Ontario | $874,775 | $874,774 | $1,749,549 |

# ATTACHMENT A
## NEW YORK STATE CHILD CARE BLOCK GRANT
### SOCIAL SERVICES DISTRICT ALLOCATIONS
### 4/1/2014-3/31/2015

| LDSS | April 1, 2014 September 30,2014 | October 1, 2014 March 31, 2015 | Final SFY 2014-15 Allocation |
|---|---|---|---|
| Orange | $3,474,173 | $3,474,172 | $6,948,345 |
| Orleans | $462,289 | $462,288 | $924,577 |
| Oswego | $1,193,808 | $1,193,807 | $2,387,615 |
| Otsego | $475,553 | $475,552 | $951,105 |
| Putnam | $450,219 | $450,218 | $900,437 |
| Rensselaer | $2,073,375 | $2,073,375 | $4,146,750 |
| Rockland | $4,232,721 | $4,232,720 | $8,465,441 |
| St Lawrence | $935,622 | $935,621 | $1,871,243 |
| Saratoga | $948,205 | $948,204 | $1,896,409 |
| Schenectady | $2,992,913 | $2,992,912 | $5,985,825 |
| Schoharie | $299,858 | $299,858 | $599,716 |
| Schuyler | $221,593 | $221,593 | $443,186 |
| Seneca | $163,264 | $163,264 | $326,528 |
| Steuben | $1,111,519 | $1,111,519 | $2,223,038 |
| Suffolk | $15,682,085 | $15,682,084 | $31,364,169 |
| Sullivan | $920,067 | $920,066 | $1,840,133 |
| Tioga | $734,285 | $734,284 | $1,468,569 |
| Tompkins | $1,131,798 | $1,131,797 | $2,263,595 |
| Ulster | $1,876,750 | $1,876,749 | $3,753,499 |
| Warren | $658,608 | $658,607 | $1,317,215 |
| Washington | $437,284 | $437,283 | $874,567 |
| Wayne | $581,573 | $581,572 | $1,163,145 |
| Westchester | $13,887,797 | $13,887,797 | $27,775,594 |
| Wyoming | $236,302 | $236,302 | $472,604 |
| Yates | $117,846 | $117,845 | $235,691 |
| New York City | $250,751,821 | 250751821 | $501,503,642 |
| State Total | $397,035,723 | $397,035,686 | $794,071,409 |

## ATTACHMENT B
## NEW YORK STATE CHILD CARE BLOCK GRANT

## MAINTENANCE OF EFFORT (MOE) LEVEL
## Federal Fiscal Year 1994-95 Basis

| LDSS | MOE Amount | LDSS | MOE Amount |
|---|---|---|---|
| Albany | $ 1,019,127 | | |
| Allegany | 68,895 | Oneida | $ 283,468 |
| Broome | 518,534 | Onondaga | 1,204,201 |
| Cattaraugus | 34,769 | Ontario | 73,752 |
| Cayuga | 15,101 | Orange | 32,900 |
| Chautauqua | 558,879 | Orleans | 36,152 |
| Chemung | 63,364 | Oswego | 41,453 |
| Chenango | 27,933 | Otsego | 28,900 |
| Clinton | 99,395 | Putnam | 62,728 |
| Columbia | 7,848 | Rensselaer | 164,819 |
| Cortland | 53,422 | Rockland | 235,830 |
| Delaware | 34,955 | St. Lawrence | 101,658 |
| Dutchess | 193,433 | Saratoga | 30,127 |
| Erie | 1,264,742 | Schenectady | 228,165 |
| Essex | 16,498 | Schoharie | 12,101 |
| Franklin | 26,381 | Schuyler | 9,515 |
| Fulton | 38,407 | Seneca | 19,292 |
| Genesee | 49,813 | Steuben | 148,022 |
| Greene | 20,310 | Suffolk | 692,326 |
| Hamilton | 2,738 | Sullivan | 28,491 |
| Herkimer | 14,318 | Tioga | 22,049 |
| Jefferson | 81,936 | Tompkins | 70,752 |
| Lewis | 11,454 | Ulster | 208,356 |
| Livingston | 76,936 | Warren | 22,063 |
| Madison | 12,147 | Washington | 32,583 |
| Monroe | 4,221,021 | Wayne | 39,416 |
| Montgomery | 11,738 | Westchester | 1,018,071 |
| Nassau | 1,574,621 | Wyoming | 13,806 |
| Niagara | 364,420 | Yates | 11,683 |
| | | New York City | 52,937,271 |
| | | State Total | 68,293,085 |

# 14-OCFS-LCM-09
# *SFY 2014-15 Social Services Block Grant (Title XX) Allocations*

The purpose of 14-OCFS-LCM-09, *SFY 2014-15 Social Services Block Grant (Title XX) Allocations* is to provide local departments of social services (LDSS) with their Social Services Block Grant (Title XX) allocations for State Fiscal Year (SFY) 2014-15.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-09 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Administration/Budget Management |
| **Date:** | June 12, 2014 |
| **Subject:** | **SFY 2014-15 Social Services Block Grant (Title XX) Allocations** |
| **Suggested Distribution:** | Accounting Supervisors<br>Directors of Social Services |
| **Contact Person(s):** | See page 4 |
| **Attachments:** | FFY 2013-14 Social Services Block Grant (Title XX) Allocations as authorized by the SFY 2014-15 Budget:<br>Attachment A: Adult Protective & Domestic Violence Services<br>Attachment B: All Eligible Title XX Services |
| **Attachments Available Online:** | No |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to provide local departments of social services (LDSS) with their Social Services Block Grant (Title XX) allocations for State Fiscal Year (SFY) 2014-15.

## II. Background

The Social Services Block Grant (SSBG) (CFDA# 93.667) or Title XX of the Social Security Act, (Public Law 106-66, U.S.C. 1397 ET seq.) provides annual capped entitlement funding from the United States Department of Health and Human Services. In FFY 2014, New York State will receive $97,802,404, a net decrease of $2.4 million from the prior year.

Approximately five percent of the total New York State allotment or $4,890,120 has been allocated to support training activities for local departments of social services (LDSS) and state staff. The remaining amount of $92,912,284 is allocated to LDSS. Chapter 53 of the Laws of 2014 directs that $66,000,000 will continue to be provided for the reimbursement of LDSS expenditures for Adult Protective and Domestic Violence Services, and the remaining

funding of $26,912,284 will be available to reimburse other eligible Title XX services expenditures. Claims submitted for expenditures from October 1, 2013, through September 30, 2014, will be accepted through March 31, 2015.

## III. Other Related SFY 2014-15 Budget Actions

The SFY 2014-15 Enacted Budget continues to appropriate $964 million of Temporary Assistance for Needy Families (TANF) funding for the Flexible Fund for Family Services (FFFS). Under the FFFS, Child Welfare Services may be funded for families that meet the TANF-Emergency Assistance to Families (EAF) eligibility criteria and/or for families with incomes up to 200 percent of the federal poverty level. LDSS also have the option to transfer a portion of their FFFS allocation to the Title XX Social Services Block Grant. Federal law requires that any FFFS funding transferred to the Title XX Social Services Block Grant must be used for families and individuals with incomes below 200 percent of the federal poverty level. Recipients of the Title XX below 200 percent funds also must be either U.S. citizens or qualified aliens as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Among the programs that can be supported with funds transferred to Title XX from an LDSS's FFFS allocation are the TANF Transfer to Title XX below 200 percent for Preventive, Child Protective, Aftercare and Adoption Services and the TANF transfer to Title XX for otherwise eligible Title XX below 200 percent expenditures. Consistent with federal statute, a statewide total of 30 percent of the state's total TANF funds may be transferred to the Child Care and Development Block Grant (CCDBG) and/or to the Title XX Social Services Block Grant, with an upward statewide limit of 10 percent for the Title XX transfer. Under Chapter 53 of the Laws of 2014, for SFY 2014-15, an LDSS may transfer up to 32 percent of its FFFS allocation to the amount of TANF funds that may be transferred to the CCDBG and Title XX combined, with up to 25 percent of its FFFS allocation going to Title XX.

With the establishment of FFFS in SFY 2005-06, district-specific Child Welfare Services thresholds were enacted. For SFY 2014-15, the total combined threshold continues to be $342,322,341. In order for districts to receive state reimbursement for eligible child welfare expenditures, each district must expend FFFS funds for Title XX below 200 percent, TANF-EAF Child Welfare Services, FFFS Child Welfare Direct Services for families with income below 200 percent, and Administration at a level equal to or greater than that district's portion of the $342,322,341 statewide Child Welfare Services threshold. If districts do not meet the new child welfare threshold through child welfare expenditures under FFFS and FFFS funds transferred to Title XX, they will not receive 62 percent reimbursement for their other child welfare costs, other than community optional preventive services.

## IV. Social Services Block Grant (Title XX) Allocation Methodology

The Title XX allocations provide $66,000,000 for the reimbursement of LDSS expenditures for Adult Protective and Domestic Violence Services and $26,912,284 for the reimbursement

of other eligible Title XX services expenditures for a total of $92,912,284. The allocation methodology is as follows:

**Adult Protective and Domestic Violence Services (Attachment A):** Of the $92,912,284, $66,000,000 is set aside to provide 100 percent reimbursement to LDSS for eligible Title XX services expenditures for Adult Protective and Domestic Violence Services, incurred on or after October 1, 2013, through September 30, 2014, and claimed by March 31, 2015, for settlement purposes. Allocation of this funding is based on each LDSS's share of claims for those services, adjusted by the applicable cost allocation methodology and net of any retroactive payments, for the twelve-month period ending June 30, 2013, that was submitted on or before January 2, 2014.

It should be noted that FFFS funds also are available to cover costs eligible for Title XX below 200 percent, if an LDSS elects to transfer a portion of its FFFS funds allocation to Title XX to fund these services, for Adult Protective and Domestic Violence Services to children and their families with incomes less than 200 percent of the Federal Poverty Income level for the family.

If an LDSS does not fully expend its allocation, the funds may be reallocated to other LDSS with eligible claims that exceed their allocations. Eligible Adult Protective and Domestic Violence Services expenditures in excess of the allocation are eligible for state reimbursement at the rate of 98 percent of 50 percent (or 49 percent) after any additional federal reimbursement is applied.

**All Eligible Title XX Services (Attachment B):** The remaining funding of $26,912,284 may be used to reimburse other eligible Title XX services expenditures incurred on or after October 1, 2013, through September 30, 2014, and claimed by March 31, 2015, for settlement purposes. The allocation of these funds is based on each LDSS's claims for eligible Title XX services, adjusted by the applicable cost allocation methodology and net of any retroactive payments for the twelve-month period ending June 30, 2013, that was submitted on or before January 2, 2014. The allocation methodology does not consider Adult Protective Services and Domestic Violence Services, as those claims were considered in allocating the $66,000,000 set aside mentioned above. The allocation methodology also does not consider claims for Preventive Services, Child Protective Services, Aftercare Services, or Adoption Services (including Post-Adoption Services), as funding for those services was factored into the LDSS's estimated share of the FFFS allocation. Although the allocation of these Title XX funds did not include claims for Adult Protective Services, Domestic Violence Services or Child Welfare Services, these funds may be used to reimburse the costs of such services.

If an LDSS does not fully expend its allocation, the funds may be reallocated to other LDSS with eligible claims that exceed their allocations. Title XX eligible services expenditures, other than Adult Protective Services, Domestic Violence Services and Child Welfare Services, in excess of the allocation are **not** eligible for state reimbursement.

## V. Claiming

Expenditures for allocations included in this publication are claimed as follows:

| | | | |
|---|---|---|---|
| Title XX | Purchased Expenditures | Schedule G | LDSS-1372 |
| | Administrative Expenditures | Schedule D2 | LDSS-2347-B |
| | Training | Schedule D6 | LDSS-2347-C |

Instructions for claiming purchased expenditures can be found in the Fiscal Reference Manual, Volume 2, Chapter 3. Instructions for claiming administrative expenditures can be found in the Fiscal Reference Manual, Volume 3, Chapter 9. Instructions for claiming training expenditures can be found in the Fiscal Reference Manual, Volume 3, Chapter 13. The Fiscal Reference Manuals are available at http://otda.state.nyenet/bfdm/finance.

## VI. Contact Information / Questions

Questions pertaining to the allocations may be directed to:

Bryan Bagstad, Local Operations Manager, Bureau of Budget Management;
(518) 474-1361

Deborah Davis, Assistant Director, Bureau of Budget Management; (518) 474-1361

Questions pertaining to the FFFS Plan and Fiscal Claiming may be directed to the Office of Temporary and Disability Assistance:

**FFFS Plan:**

Elida Tomasulo, (518) 474-8905
E-mail – Elida.Tomasulo@otda.ny.gov

**Fiscal Claiming:**

Regions I-V: Edward Conway, (518) 474-7549
E-mail – Edward.Conway@otda.ny.gov

Region VI: Michael Simon, (212) 961-8250
E-mail – Michael.Simon@otda.ny.gov

*/s/ Derek Holtzclaw*

**Issued By:**
Name: Derek Holtzclaw
Title: Associate Commissioner for Financial Management
Division/Office: Administration

**ATTACHMENT A**

**Title XX**
**FFY 2013-2014**
**Adult Protective and Domestic Violence Services**

| District | Allocation | District | Allocation |
|---|---|---|---|
| Albany | 1,527,485 | Ontario | 105,424 |
| Allegany | 54,677 | Orange | 701,825 |
| Broome | 327,573 | Orleans | 43,883 |
| Cattaraugus | 87,827 | Oswego | 159,651 |
| Cayuga | 122,438 | Otsego | 122,106 |
| Chautauqua | 177,480 | Putnam | 81,267 |
| Chemung | 172,036 | Rensselaer | 212,942 |
| Chenango | 81,133 | Rockland | 582,215 |
| Clinton | 150,504 | St. Lawrence | 169,733 |
| Columbia | 107,365 | Saratoga | 133,671 |
| Cortland | 102,754 | Schenectady | 321,769 |
| Delaware | 285,002 | Schoharie | 114,336 |
| Dutchess | 988,945 | Schuyler | 25,820 |
| Erie | 1,977,844 | Seneca | 47,102 |
| Essex | 95,461 | Steuben | 128,276 |
| Franklin | 85,473 | Suffolk | 2,029,260 |
| Fulton | 82,428 | Sullivan | 106,712 |
| Genesee | 79,958 | Tioga | 77,665 |
| Greene | 87,232 | Tompkins | 178,257 |
| Hamilton | 3,095 | Ulster | 262,728 |
| Herkimer | 74,822 | Warren | 90,977 |
| Jefferson | 188,375 | Washington | 62,368 |
| Lewis | 47,135 | Wayne | 84,698 |
| Livingston | 106,405 | Westchester | 2,528,160 |
| Madison | 155,598 | Wyoming | 25,674 |
| Monroe | 893,615 | Yates | 25,739 |
| Montgomery | 61,428 | | |
| Nassau | 1,143,399 | Upstate | 18,751,478 |
| Niagara | 205,996 | | |
| Oneida | 225,114 | New York City | 47,248,522 |
| Onondaga | 630,623 | | |
| | | Statewide Totals | 66,000,000 |

**ATTACHMENT B**

**Title XX**
**FFY 2013-2014**
**All Eligible Title XX Services**

| District | Allocation | District | Allocation |
|---|---|---|---|
| Albany | 148,189 | Ontario | 58,089 |
| Allegany | 35,704 | Orange | 182,670 |
| Broome | 75,616 | Orleans | 15,531 |
| Cattaraugus | 31,130 | Oswego | 60,978 |
| Cayuga | 25,664 | Otsego | 33,333 |
| Chautauqua | 58,730 | Putnam | 27,969 |
| Chemung | 46,841 | Rensselaer | 53,539 |
| Chenango | 22,950 | Rockland | 160,321 |
| Clinton | 57,642 | St. Lawrence | 47,074 |
| Columbia | 37,039 | Saratoga | 42,635 |
| Cortland | 28,252 | Schenectady | 80,586 |
| Delaware | 25,698 | Schoharie | 57,040 |
| Dutchess | 177,440 | Schuyler | 11,576 |
| Erie | 294,432 | Seneca | 22,471 |
| Essex | 24,409 | Steuben | 71,285 |
| Franklin | 31,615 | Suffolk | 451,670 |
| Fulton | 26,600 | Sullivan | 40,462 |
| Genesee | 24,020 | Tioga | 27,500 |
| Greene | 30,212 | Tompkins | 50,870 |
| Hamilton | 1,864 | Ulster | 136,376 |
| Herkimer | 22,520 | Warren | 19,761 |
| Jefferson | 72,853 | Washington | 28,739 |
| Lewis | 13,880 | Wayne | 29,277 |
| Livingston | 42,578 | Westchester | 769,669 |
| Madison | 30,853 | Wyoming | 12,463 |
| Monroe | 188,413 | Yates | 12,220 |
| Montgomery | 18,348 | | |
| Nassau | 1,485,994 | Upstate | 5,905,591 |
| Niagara | 73,868 | | |
| Oneida | 65,746 | New York City | 21,006,693 |
| Onondaga | 182,387 | | |
| | | Statewide Totals | 26,912,284 |

# New York Code, Rules and Regulations, Title 18, Part 415 *Child Care Services*

New York State Code, Rules and Regulations, Title 18, Part 415, *Child Care Services*, governs the authorization and payment of publicly funded child care services for children under any provision of the Social Services Law or the federal Social Security Act.

This page left intentionally blank.

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 18. DEPARTMENT OF SOCIAL SERVICES
CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES
SUBCHAPTER C. SOCIAL SERVICES
ARTICLE 2. FAMILY AND CHILDREN'S SERVICES
PART 415. CHILD CARE SERVICES

## Contents

415.0. Applicability. ....2
415.1. Definitions. ....2
415.2. Eligibility, guarantees, and priorities for child care services. ....7
415.3. Caretaker's responsibilities. ....13
415.4. Local district responsibility. ....15
415.5. Methods of making payment for child care services. ....33
415.6. State reimbursement. ....33
415.7. Additional requirements for the New York State Child Care Block Grant Program. ....36
415.8. Special provisions relating to public assistance recipients. ....38
415.9. Rates. ....41
415.10 Waivers. ....43
415.11 Effective date. ....43
415.12 Eligible provider responsibilities. ....43

## 415.0. Applicability.

This Part governs the authorization and payment of publicly funded child care services for children under any provision of the Social Services Law or the federal Social Security Act to the extent of appropriations made available therefor.

## 415.1. Definitions.

For purposes of this Part and instruction of the department pertaining thereto, the following definitions of terms shall apply:

(a) *Child care services* means care for an eligible child provided on a regular basis either in or away from the child's residence for less than 24 hours per day which is provided by an eligible provider as defined in subdivision (i) of this section. Child care services may exceed 24 consecutive hours when such services are provided on a short-term emergency basis or in other cases where the caretaker's approved activity necessitates care for 24 hours or more on a limited basis, if the district has indicated in its consolidated services plan or integrated county plan that it will provide for such care.

(b) *Eligible child* means a child who resides with a caretaker which meets the program and financial eligibility requirements for the particular type of child care services and who:

(1) is under 13 years of age. For child care services provided under Title XX of the Federal Social Security Act or provided as child protective services or preventive services under other than under the New York State Child Care Block Grant Program, a child who turns 13 years of age during a school year may continue to receive child care services through the end of that school year; or

(2) is under 18 years of age; and

(i) is a child with special needs as defined in subdivision (c) of this section; or

(ii) is under court supervision; or

(3) is under 19 years of age, is a full-time student in a secondary school, or in an equivalent level of vocational or technical training, and:

(i) is a child with special needs as defined in subdivision (c) of this section; or

(ii) is under court supervision.

(c) *Child with special needs* means a child who is incapable of caring for himself or herself and who has been diagnosed as having one or more of the following conditions to such a degree that it adversely affects the child's ability to function normally:

(1) visual impairment;
(2) deafness or other hearing impairment;
(3) orthopedic impairment;
(4) emotional disturbance;
(5) mental retardation;

(6) learning disability;
(7) speech impairment;
(8) health impairment;
(9) autism; or
(10) multiple handicaps.

Any such diagnosis must be made by a physician, licensed or certified psychologist or other professional with the appropriate credentials to make such a diagnosis.

(d) *Caretaker* means the child's parent, legal guardian or caretaker relative, or any other person in loco parentis to the child.

(e) *Caretaker relative* means any person who is a parent or other relative as set forth in section 369.1(b) of this Title who exercises responsibility for the day-to-day care of, and who lives with, a child.

(f) *Person in loco parentis to a child* means the child's guardian or caretaker relative or any other person with whom a child lives who has assumed responsibility for the day-to-day care and custody of the child.

(g) *Eligible provider* means one of the following:

(1) a validly licensed or properly registered day care center or a properly registered school- age child care program operated by a voluntary non-profit corporation or association or an authorized child caring agency; or

(2) a validly licensed or properly registered child day care center or a properly registered school-age child care program operated by a private proprietary corporation or organization or by an individual; provided, however, that for child care services provided under Title XX of the Federal Social Security Act or provided as child protective services or preventive services that are funded other than under the New York State Child Care Block Grant Program, such a provider will be an eligible provider only with the prior approval of the commissioner of the Office of Children and Family Services upon the demonstration by the social services district that conveniently accessible non-profit facilities are unavailable or unable to provide the required care; or

(3) a public school district operating a child care program which meets State and Federal requirements; or

(4) a family day care home properly registered with the department to provide child care services to children; or

(5) a group family day care home issued a valid license by the department to provide child care services to children; or

(6) a caregiver of informal child care as defined in subdivision (h) of this section who is enrolled with the social services district in accordance with section 415.4(f) of this Part; provided, however, that such a caregiver is not an eligible provider for child care services provided under Title XX of the Federal Social Security Act or provided as child protective services or preventive services that are funded other than under the New York State Child Care Block Grant Program; or

(7) a caregiver of legally-exempt group child care as defined in subdivision (i) of this section which is enrolled with the social services district in accordance with section 415.4(f) of this Part; provided, however, that such

a caregiver is not an eligible provider for child care services provided under Title XX of the Federal Social Security Act or provided as child protective services or preventive services that are funded other than under the New York State Child Care Block Grant Program except as provided in paragraph (3) of this subdivision.

(h) Informal child care includes legally-exempt family child care and legally-exempt in- home child care. Members of the child's or the caretaker's public assistance unit, and other adult members of the child care service unit except the child's siblings, are not eligible to provide subsidized child care.

(1) *Legally-exempt family child care* means:

(i) child care for one or two children provided outside the child's own home in a residence by a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in article 4 of the New York State Labor Law, and who is chosen and whose services are monitored by the child's caretaker; or

(ii) child care for more than two children provided outside the child's own home in a residence by a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in article 4 of the New York State Labor Law, who provides such care for less than three hours per day and who is chosen and whose services are monitored by the child's caretaker; or

(iii) child care provided by a relative within the third degree of consanguinity of the parent(s) or step-parent(s) of the child or children except where such relative is a person legally responsible for, or the caretaker relative of, such child or children. Relatives within the third degree of consanguinity of the parent(s) or step-parent(s) of the child include: the grandparents of the child; the great-grandparents of the child; the great-great-grandparents of the child; the aunts and uncles of the child, including the spouses of the aunts and uncles; the great-aunts and great-uncles of the child, including the spouses of the great-aunts and great- uncles; the siblings of the child; and the first cousins of the child, including the spouses of the first cousins.

(2) *Legally-exempt in-home child care* means:

(i) child care furnished in the child's own home by a caregiver who is chosen and monitored by the child's caretaker and who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in article 4 of the New York State Labor Law; provided, however, that the child's caretaker must provide the caregiver with all employment benefits required by State and/or Federal law, and must pay the caregiver at least the minimum wage, if required.

(i) *Legally-exempt group child care* means care provided by those caregivers, other than caregivers of informal child care as defined in subdivision (c) of this section, which are not required to be licensed by or registered with the department or licensed by the City of New York but which meet all applicable State or local requirements for such child care programs. Caregivers of legally-exempt group child care include, but are not limited to:

(1) pre-kindergarten and nursery school programs for children three years of age or older, and programs for school-age children conducted during non-school hours, operated by public school districts or by private schools or academies which provide elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such pre-kindergarten, nursery

school or school-age programs are located on the premises or campus where the elementary or secondary education is provided;

(2) nursery schools and programs for pre-school-aged children operated by non-profit agencies or organizations or private proprietary agencies which provide services for three or less hours per day;

(3) summer day camps operated by non-profit agencies or organizations or private proprietary agencies in accordance with Subpart 7-2 of the State Sanitary Code;

(4) day care centers, family day care homes and other child care programs located on Federal property which are operated in compliance with the applicable Federal laws and regulations for such child care programs; and

(5) day care centers, family day care homes and other child care programs located on tribal property which are operated in compliance with the applicable tribal laws and regulations for such child care programs.

(j) *Family share* means the weekly amount paid by the child's caretaker toward the costs of the child care services determined in accordance with section 415.3(f) of this Part.

(k) *State income standard* means the most recent Federal income official poverty line, as defined and annually revised by the United States Department of Health and Human Services under the authority of 42 U.S.C. 9902(2), updated by the department for a family size of four and adjusted by the department for family size.

(l) *Child care services unit* means those adults and/or children residing in the same household who will be considered for the purposes of determining a family's eligibility for child care services. For the purposes of this Part, an adult means any person 18 years of age or older unless the individual meets the definition of a child with special needs or the district has elected to include 18-,19- or 20-year old individuals in the same child care services unit as their parent by indicating such option in its consolidated services plan or integrated county plan. Districts have the option to include all 18-, 19- or 20-year olds in the child care services unit or to include only those 18-, 19- or 20-year olds whose inclusion in the child care services unit would benefit the family. The district's approved consolidated services plan or integrated county plan must specify the criteria it will use to determine whether or not an 18-,19- or 20-year old is included in the child care services unit.

(1) For families where the child's caretaker is receiving public assistance, the child care services unit will be comprised of the caretaker, his or her children and any other member of the public assistance unit. For families where no adult family member is in receipt of public assistance, the child care service unit will be comprised as follows:

(i) when adults, other than spouses, reside together and do not have a child in common, each adult along with his or her child(ren) will be considered a separate child care services unit;

(ii) when adults, other than spouses, reside together and have at least one child in common, the child care services unit will be comprised of the adults who have child(ren) in common, the child(ren) those adults have in common, and the other child(ren) of each such adult;

(iii) when a custodial parent who is under the age of 21 years is residing with his or her parent(s), or has established his or her own household, or resides with an individual other than his or her parent(s), the child care services unit will be comprised of the custodial parent who is under 21 years of age, his or her child(ren), and any other individual in the household with legal responsibility for the custodial

parent's child(ren);

(iv) when an eligible child(ren) resides only with individuals who are not the child(ren)'s parent, step-parent, adoptive parent or legal guardian with financial responsibility for the child(ren), the child care services unit will be comprised of the eligible child(ren) only; and

(v) individuals who would otherwise be included in the child care services unit but who are temporarily absent from a household who meet the following criteria will be considered part of the child care services unit:

(a) individuals whose needs are partially or fully being met by members of the household, such as children or minors attending school away from home; provided, however, that a child away from home due to a foster care placement will not be considered part of the child care services unit; and

(b) individuals who are required to contribute to the needs of the household.

(m) *Actual cost of care* means the rate usually charged by the caregiver for non-subsidized child care services. When child care services are provided in accordance with the terms of a contract between a social services district and the caregiver, the negotiated contract rate is the actual cost of care for such services even if such rate is less than the rate usually charged by the caregiver for non-subsidized child care services.

(n) *Child care certificate* means a certificate that is issued directly to a child's caretaker which verifies that the caretaker is eligible for subsidized child care services which the caretaker arranges.

(o) *Engaged in work*.

(1) For an individual who is not receiving public assistance, engaged in work means that the individual:

(i) is earning wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law for the type of employment; or

(ii) is self-employed and is able to demonstrate that such self-employment produces personal income equal to or greater than the minimum wage or has the potential for growth in earnings to produce such an income within a reasonable period of time.

(2) For an individual receiving public assistance, engaged in work means the individual is engaged in work as defined by the social services district in the district's employment plan submitted to and approved by the New York State Department of Labor.

(p) *Seeking employment*. For an individual who is not receiving public assistance, seeking employment means making in-person job applications, going on job interviews, registering with a New York State Department of Labor's Division of Employment Services Office to obtain job listings, and participating in such other job seeking activities as are approved by the social services district.

(q) *Child welfare service plan* means a clearly defined service plan as developed and approved by the appropriate children's service unit, including a description of the immediate home situation of the children, the reason for care, kind of service needed, planned hours of care, and the goal of the service, including an evaluation of the plan and goal at the six-month redetermination of eligibility for the day-care service provided.

(r) *Office* means the New York State Office of Children and Family Services.

(s) *Legally-exempt caregiver enrollment agency* means the agency under contract with the office to enroll caregivers of legally-exempt child care to provide subsidized services under the New York State Child Care Block Grant. For each district in New York State except for the City of New York, the legally-exempt caregiver enrollment agency will be the applicable child care resource and referral agency under contract with the office to serve that district. For the City of New York, the legally-exempt caregiver enrollment agency will be an entity or entities identified by the office in consultation with the New York City Human Resources Administration and the New York City Administration for Children's Services.

## 415.2. Eligibility, guarantees, and priorities for child care services.

**Eligibility**. The following families are eligible for child care services under the specified child care programs when such care is not otherwise available from a legally responsible relative or caretaker of the child in need of services and the care is a necessary part of a plan for self support. For two-parent or two-caretaker families, each parent or caretaker must meet one of the eligibility criteria set forth in this subdivision.

(a) New York State Child Care Block Grant Program. A family will be eligible for child care services under the New York State Child Care Block Grant Program, if the family meets one or more of the following criteria:

(1) Families which are guaranteed child care services. A social services district must guarantee child care services to a family which meets the criteria set forth in any subparagraph of this paragraph regardless of whether the social services district has any State or Federal funds available under this program to pay for all or a portion of such costs. In accordance with subdivision (d) of this section, a district may set aside funds and/or establish priorities for families eligible for a child care guarantee.

(i) A social services district must guarantee child care services to a family who has applied for or is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 18 NYCRR Part 385. The guarantee applies to all of the eligible children of the parent(s) or caretaker relative(s) regardless of the child's status as part of the public assistance filing unit.

(ii) A local social services district must guarantee to applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child care subsidies in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this section, an eligible applicant for, or recipient of, public assistance benefits and who is employed, includes a person whose gross earnings equal, or are greater than, the required number of work houses times the State minimum wage. Recipients of child care subsidies under this section who are no longer eligible for public assistance benefits, shall be eligible for transitional child care described in subparagraph (iv) of this paragraph as if they had been recipients of public assistance.

(iii) A social services district must guarantee child care services to a family which is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

(iv) A social services district must guarantee child care services for a period of up to 12 consecutive

months after the month in which a family's public assistance case closed or, for those who chose child care in lieu of public assistance, the month after the family is no longer financially eligible for public assistance, provided:

(a) the case closed or the family became financially ineligible for public assistance due to:

(1) increased income from either employment or child support; or

(2) the family voluntarily ending assistance and their income is no longer within public assistance standards; and

(b) the family received public assistance in at least three of the six months immediately preceding the case closing; or, for a family which chose child care in lieu of public assistance, was eligible for public assistance in at least three of the six months immediately preceding their ineligibility for public assistance; and

(c) the family includes an eligible child that is under the age of 13 who needs child care services in order to enable the child's parent(s) or caretaker relative(s) to be engaged in work as defined in section 415.1(o)(1) of this Part; and

(d) the family has income at or below 200 percent of the applicable State income standard. This child care guarantee is available to eligible families for 12 months from the month after the family's eligibility for public assistance has terminated or ended. Families may ask for and begin to receive child care in any month during the 12-month period of the child care guarantee. The start date for eligibility may precede the date services were requested and cover any period during the 12 months of the guarantee.

(2) Families that are eligible when funds are available. A social services district must provide child care services to a family eligible under any one of the subparagraphs of this paragraph, to the extent that the district continues to have funds available under either the district's allocation from the State Child Care Block Grant Program or any local funds appropriated for such program subject to any priorities and set asides established pursuant to subdivision (d) of this section.

(i) A family which has applied for or is receiving public assistance when such services are needed for an eligible child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by social services officials including orientation, assessment, or work activities defined in 18 NYCRR Part 385.

(ii) A family receiving public assistance when such services are needed for a child aged 13 or older, who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

(iii) A family receiving public assistance when child care services are necessary:

(a) to enable a teenage parent to attend high school or an equivalency program; or

(b) for the child to be protected because the child's parent(s) or caretaker relative(s) is physically or mentally incapacitated or has family duties away from home necessitating his or her absence.

(iv) A family with income up to 200 percent of the State income standard when the family is at risk of becoming dependent on public assistance and child care services are needed:

(a) for the child's caretaker(s) to be engaged in work as defined in section 415.1(o)(1) of this Part; or

(b) to enable a teenage parent to attend high school or an equivalency program.

(3) Families that are eligible if funds are available under this program and if the social services district has listed such families as eligible in the district's consolidated services plan or integrated county plan. A social services district must provide child care services for an eligible child as defined in section 415.1(b) of this Part to a family eligible under this paragraph, to the extent that the district continues to have funds available under either the district's allocation for the State Child Care Block Grant Program or any local funds appropriated for such program subject to any priorities and set asides established pursuant to subdivision (d) of this section, provided the social services district has listed such families as eligible families in the district's consolidated services plan or integrated county plan:

(i) a family receiving public assistance when child care services are necessary for a parent or caretaker relative to participate in an approved activity in addition to their required work activity;

(ii) a family receiving public assistance when child care services are necessary for a sanctioned parent or caretaker relative to participate in unsubsidized employment whereby the parent or caretaker relative receives earned wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law;

(iii) a family receiving public assistance or with income up to 200 percent of the State income standard when child care services are needed for the child to be protected because the child's caretaker is:

(a) participating in an approved substance abuse treatment program, or in screening for or an assessment of the need for substance abuse treatment;

(b) homeless or receiving services for victims of domestic violence and needs child care in order to participate in an approved activity, or in screening for or an assessment of the need for services for victims of domestic violence; or

(c) in an emergency situation of short duration including, but not limited to, cases where the caretaker's absence from the home for a substantial part of the day is necessary because of extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters, or providing chore/housekeeper services for an elderly or disabled relative.

(iv) a family is receiving public assistance or has income up to 200 percent of the State income standard and child care services are needed for the child's caretaker to attend a two- year program other than one with a specific vocational sequence leading to an associates degree or a certificate of completion, or a four year college or university program leading to a bachelor's degree provided:

(a) the program is reasonably expected to improve the earning capacity of the caretaker;

(b) the caretaker is and continues to participate in non-subsidized employment whereby the caretaker works at least 171/2 hours per week and earns wages at a level equal to or greater

than the minimum amount required under Federal and State Labor Law while pursuing the course of study; and

(c) the caretaker can demonstrate his or her ability to successfully complete the course of study;

(v) a family with an open child protective services case when it is determined on a case- by-case that such child care is needed to protect the child;

(vi) a family with income up to 200 percent of the State income standard when child care services are needed for the child to be protected because the child's caretaker is physically or mentally incapacitated or has family duties away from home necessitating his or her absence;

(vii) a family with income up to 200 percent of the State income standard when child care services are needed for the child's caretaker to participate in one of the following activities provided such activity is an allowable activity set forth in the social services district's consolidated services plan or integrated county plan and the district determines that the activity is a necessary part of a plan for the family's self-support:

(a) actively seeking employment as defined in section 415.1(p) of this Part for a period of up to six months as established by the social services district in its consolidated services plan or integrated county plan, if the caretaker documents that he or she is currently registered with a New York State Department of Labor's Division of Employment Services Office, provided that child care services will be available only for the portion of the day the family is able to document is directly related to the parent or caretaker engaging in such activities;

(b) Educational or vocational activities including attendance in one of the following secondary or post-secondary programs:

(1) a public or private educational facility providing a standard high school curriculum offered by or approved by the local school district;

(2) an education program that prepares an individual to obtain a New York State high school equivalency diploma;

(3) a program providing basic remedial education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the ninth month of the eighth grade level in those areas;

(4) a program providing literacy training designed to help individuals improve their ability to read and write;

(5) an English as a second language (ESL) instructional program designed to develop skills in listening, speaking, reading and writing the English language for individuals whose native or primary language is other than English;

(6) a two year full-time degree granting program at a community college, a two year college, or an undergraduate college with a specific vocational goal leading to an associate degree or certificate of completion within a determined time frame which must not exceed 30 consecutive calendar months;

(7) a training program which has a specific occupational goal and is conducted by an institution licensed or approved by the State Education Department other than a college or university;

(8) a prevocational skills training program such as a basic education and literacy training program; or

(9) a demonstration project designed for vocational training or other projects approved by the Department of Labor;

(c) a program to train workers in an employment field that currently is or is likely to be in demand in the near future, if the caretaker documents that he or she is a dislocated worker and is currently registered in such a program, provided that child care services are only used for the portion of the day the caretaker is able to document is directly related to the caretaker engaging in such a program. For the purposes of this provision, a dislocated worker is any person who: has been terminated or laid off from employment; has received a notice of termination or layoff from employment that will occur within six months of such notice; or was self-employed but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters. Notwithstanding the potential for some of these educational or vocational training programs to allow for the eventual attainment of a bachelor's degree or like certificate of completion for a four-year college program, this regulation does not permit the renewal of such educational or vocational training program enrollment for any additional period in excess of 30 consecutive calendar months except as authorized under subparagraph (iv) of this paragraph, nor does it permit enrollment in more than one such program.

(b) Title XX Program

(1) To the extent that the social services district has made Title XX funds available for child care services, a family is eligible for child care services funded under Title XX of the Federal Social Security Act if the family meets one or more of the criteria set forth in subdivision (a) of this section or the child is in need of child care as a preventive service provided the social services district has listed such families as eligible families in the district's consolidated services plan or integrated county plan, subject to any applicable priorities and set asides established pursuant to subdivision (d) of this section.

(2) A social services district may establish in its consolidated services plan or integrated county plan upper income levels above 200 percent of the State income standard for families receiving child care services under the Title XX provided that the income levels do not exceed 275 percent of the State income standard for a family of one or two, 255 percent of the State income standard for a family of three, or 225 percent of the State income standard for a family of four or more.

(c) Child care services during breaks in activities.

(1) A social services district must provide New York State Child Care Block Grant services to families receiving public assistance, during breaks in activities, for a period of up to two weeks when the parent or caretaker relative is: engaged in work; participating in work activities or performing community service pursuant to

title 9-B of article 5 of the Social Services Law; a teen parent attending high school or other equivalent training; physically or mentally incapacitated; or absent from the home due to family duties. Such child care services may be authorized for up to one month if child care arrangements would be lost if the services were not continued, and the program or employment is scheduled to begin within that one-month period.

(2) For all other families that are eligible under subdivision (a) or (b) of this section, a social services district may provide child care services while the caretaker is waiting to enter an approved activity or employment or on a break between approved activities for a period not to exceed two weeks or for a period not to exceed one month where child care arrangements would otherwise be lost and the subsequent activity is expected to begin within that period.

(d) Priority populations and funding set asides.

(1) Priority populations.

(i) For child care services funded under the New York State Child Care Block Grant Program, each social services district must give priority to the following federally-mandated populations:

(a) families with very low income. Each social services district must establish in its consolidated services plan or integrated county plan an income level at or below 200 percent of the State income standard which will constitute the upper income level for families with very low income; and

(b) families with children who have special needs.

(ii) For child care services funded under the New York State Child Care Block Grant Program and/or under Title XX of the Federal Social Security Act, each social services district may establish local priorities for child care services provided that the priorities provide eligible families with equitable access to child care assistance funds to the extent that these funds are available. Any local priorities must be set forth in the district's consolidated services plan or integrated county plan.

(a) Local priorities may refine but can not replace the federally mandated priorities.

(b) Local priorities may be based on one or a combination of factors, including, but not limited to, household composition, reason for child care, and income level.

(c)Local priorities may not have the effect of limiting a caretaker's choice of any eligible child care provider or be based on a caretaker's choice of a child care certificate.

(2)Funding set-asides.

(i) Each social services district may set aside a portion of the district's New York State Child Care Block Grant allocation and/or its Title XX allocation to serve one or more of the Federal and/or the district's local priority populations including families eligible for a child care guarantee; provided that the method of disbursement of funds to priority groups provides that eligible families within a priority group will receive equitable access to child care assistance funds to the extent that such funds are available.

(ii) Each funding set aside must be based on a 12-month period and must be described in the district's consolidated services plan or integrated county plan along with the rationale for the set aside amount based on the projected need for that population.

(iii) Within each 12-month period, the amount of the set aside for each particular priority population may be adjusted up or down by 10 percent without the prior written approval of the office. Each such adjustment to a set aside amount must be reported to the office within 30 days of the adjustment.

(iv) The prior approval of the office is needed for any adjustment in the amount of a set aside for a particular priority population which would exceed 10 percent of the amount for that set aside originally specified in the district's consolidated services plan or integrated county plan.

(3) Waiting lists and denial of services.

(i) If a social services district has set aside funds to serve one or more priority populations and all of the available funds that are not set aside are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee and which does not fall within the priority populations for the set asides or place the family on a waiting list for subsidies.

(ii) A social services district that has not established set asides must open a new case for an eligible family if the district has sufficient funding available to provide child care services to that family at the time the family is determined to be eligible. If the district does not have sufficient funding available because all of the available funds are projected to be needed for open child care cases, the district may deny services to a family which is not eligible for a child care guarantee or place the family on a waiting list for subsidies.

(4) Case closings. Once a social services district has committed all of the funds available to it, either through set asides approved in the district's consolidated services plan or integrated county plan and/or because all of the available funds are projected to be needed for open child care cases, the social services district may discontinue funding to those families which are not eligible for a child care guarantee that have lower priorities in order to serve families with higher priorities. If no priorities are established beyond the federally-mandated priorities and all funds are committed, case closings for families which are not eligible under a child care guarantee and are not a federally-mandated priority must be based on the length of time in receipt of services. The length of time used to close cases may be based either on the shortest or longest time receiving child care services but must be consistent for all families. The social services district must specify in its consolidated services plan or integrated county plan whether case closings will be based on the shortest or longest length of time receiving child care services.

(5) Each social services district must collect and submit to the office information, in the form and manner and at the times specified by the office, concerning the disbursement of child care subsidy funds showing the geographic distribution of children receiving child care services from the district.

## 415.3. Caretaker's responsibilities.

(a) An applicant for child care and development block grant services must apply, in writing, on forms and in a manner prescribed by the social services district in accordance with Part 404 of this Title. The social services district must

permit the applicant to submit an application by mail. The caretaker with whom an eligible child or children reside(s) is the applicant for such services.

(b) The applicant is responsible for providing accurate, complete and current information regarding family income and composition, child care arrangements and any other circumstances related to the family's eligibility for child care services, and for notifying the social services district immediately of any changes in such information.

(c) The child(ren)'s caretaker is responsible for locating a child care provider(s) that meets the needs of his or her child(ren). A caretaker that is unable to locate a child care provider(s) may ask the social services district for assistance.

(d) A family which chooses to have a caregiver of informal child care provide child care services in the child(ren)'s own home must provide such caregiver with all employment benefits required by State and/or Federal law and pay the caregiver at least minimum wage, if required by State and/or Federal law.

(e) Family Share

(1) Each family receiving child care services, with the exception of a family where the parent(s) or caretaker relative(s) is receiving public assistance, must contribute toward the costs of such services by paying a family share based upon the family's income. A family share also may be required of any family to recoup an overpayment for a child care services regardless of whether any member of the family is receiving public assistance.

(2) The income-based portion of the family share for child care services must be determined by the social services district in accordance with a sliding fee scale developed pursuant to paragraph (3) of this subdivision. The overpayment portion of the family share, if any, must be reflected separately from any income-based portion of the family share and must be determined in accordance with section 415.4(i) of this Part.

(3) The sliding fee scale developed by the social services district must be calculated by subtracting the State income standard, as defined in section 415.1(k) of this Part, for the specific family size of the eligible family from the annual gross income of the eligible family, multiplying the remaining income by a factor of 10 to 35 percent, as selected by the social services district and included in the district's consolidated services plan or integrated county plan, and dividing the product by 52 to determine a weekly family share. The same percentage factor must be used for all families receiving child care services which are required to pay an income-based portion of a family share.

(4) A minimum weekly family share of $1 must be charged to each family receiving child care services which is required to pay an income-based portion of a family share.

(5) Each family receiving child care services is responsible for paying only one family share regardless of the number of children in the family who are receiving child care services.

(6) The family is responsible for paying the family share in the manner determined by the social services district. The social services district may require the family to pay the family share to the social services district or to one or more child care providers used by the family.

(7) The family share will be recalculated by the social services district whenever there is a change in income, household circumstances or child care provider that would affect the amount of the family share, or when an overpayment for child care services has occurred and the recovery of such overpayment will be made

through the family share, but no less frequently than each recertification.

(8) The failure of a family receiving child care services to pay the family share for such services established by the social services district or to cooperate with such district to develop an arrangement satisfactory to the district to make full payment of all delinquent family shares constitutes an appropriate basis for suspending or terminating such child care services in accordance with the procedures set forth in section 404.6 of this Title.

(f) A caretaker seeking child care services to enable the caretaker to participate in an approved training program must provide documentation that includes, but is not limited to, the following:

(1) the name of the institution offering or conducting the training program;

(2) the course of study to be pursued or in which the person is participating;

(3) the specific vocational or rehabilitative goal;

(4) the duration of the training (hours per day) including no more than a total of three hours per day to commute (from home) to and from training location; and

(5) progress reports (marks, transcripts, letters, and like documents) which indicate that the caretaker is progressing satisfactorily towards attaining the established vocational or rehabilitative goal.

## 415.4. Local district responsibility.

Each local social services district shall be responsible for compliance with the following requirements:

(a) Initial eligibility.

(1) At the time of application for child care services, the social services district must inform the applicant of:

(i) the various child care services programs available and the requirements of the child care services programs for which the applicant may be eligible including information about the child care guarantee for applicants and recipients of public assistance and for families transitioning from public assistance set forth in section 410-w(3) of the Social Services Law. Such information must describe the actions that the family needs to take in order to be eligible for the child care guarantee;

(ii) the applicant's responsibility for reporting all relevant facts to the social services district in order that a proper determination of the applicant' s eligibility for child care services can be made and for providing the documents or other information which the applicant must submit to verify such facts;

(iii) the fact that any investigation needed in order to determine the applicant's eligibility will be undertaken;

(iv) a recipient's responsibility for notifying the social services district immediately of any change in financial circumstances, living arrangements, employment, household composition, child care provider or other circumstances that affect the family's need or eligibility for child care services;

(v) a recipient's responsibility to contribute toward the costs of the child care services by paying a family share, if required as determined in accordance with section 415.3(f) of this Part;

(vi) the child care providers with which the social services district has arrangements for the provision of child care services to recipients;

(vii) a recipient's option to choose between the eligible providers set forth in section 415.1(g) of this Part;

(viii) a recipient's responsibility to locate child care. In addition, a public assistance recipient who needs child care in order to comply with his or her work requirements must be notified of the provisions in section 415.8 of this Part regarding the recipient's responsibility to locate child care and to inform the district of the recipient' s efforts to locate child care including following up on referrals from the district, the applicable local child care resource and referral agency and/or any other child care agency to which the recipient is referred by the district;

(ix) information to assist a recipient to make an informed choice regarding the provider from which the recipient wishes to receive child care services; and

(x) a recipient's right to have child care services provided without discrimination on the basis of race, religion, national origin, sex, handicapping condition or political belief.

(2) All applications for child care services must be processed promptly. A determination of programmatic and financial eligibility must be completed within the time-frame set forth in section 404.1(d) of this Title except where the applicant requests additional time, where difficulties in verifying eligibility lead to a delay or where other reasons beyond the social services district's control lead to a delay. The reason for a delay in making such determination must be recorded in the case record and communicated to the applicant.

(3) Initial eligibility for child day care, informal child care and legally-exempt group child care services must be determined pursuant to the requirements of this Part, Part 404 of this Title and, where applicable, 18 NYCRR Part 385. In addition, required documentation and a completed service plan are necessary prerequisites to the determination of eligibility and must be retained in the case folder.

(4) If an application for child care services is approved, the social services district must:

(i) send written notice to the applicant of the determination of eligibility for child care services; the family share to be paid by the applicant, if required, the date(s) such family share is due and the family share payment procedures which must be followed; and the applicant's right to a fair hearing in accordance with Part 358 and section 404.1(f) of this Title; and

(ii) provide an authorization for child care services to the applicant in accordance with section 404.7 of this Title.

(5) If an application for child care services is denied, the social services district must send written notice to the applicant of the determination of ineligibility and of the applicant's right to a fair hearing in accordance with Part 358 and section 404.1(f) of this Title.

(b) Continuing eligibility.

(1) Continuing eligibility for child care services must be redetermined as often as case factors indicate, but no less frequently than every 12 months; provided, however, that a social services district may not require the submission of a new application merely because the applicant is no longer eligible for public assistance or no

longer eligible for a child care guarantee. The district must establish procedures to enable families to keep their child care services without interruption as long as the families remain eligible for such services including procedures to transfer families from one unit of the district to another when necessary.

(2) All factors concerning need and eligibility for child care services must be reconsidered, re-evaluated and verified during redeterminations. The periodic redeterminations conducted by the social services district do not eliminate the responsibility of a recipient of child care services to report to such district any change in financial circumstances, living arrangements, child care arrangements, employment, household composition or other circumstances that affect the family's need or eligibility for child care services.

(3) If a recipient is redetermined to be eligible for child care services, the social services district must send written notice to the recipient of the determination of eligibility for child care services; the family share payment procedures which must be followed; and the recipient's right to a fair hearing in accordance with Parts 358 and 404 of this Title.

(4) If a recipient is determined to no longer be eligible for child care services, the social services district must send written notice to the recipient of the determination of ineligibility and of the recipient's right to a fair hearing in accordance with Part 358 and section 404.1(f) of this Title.

(c) Child care services requirements.

(1) A recipient must have the option to choose between the eligible providers set forth in section 415.1(h) of this Part; provided, however, that:

(i) a recipient may choose a provider of informal child care or a provider of legally- exempt group child care only for child care services provided under the New York State Child Care Block Grant Program;

(ii) a social services district may disapprove a provider chosen by a recipient in a preventive or child protective case if the district has reason to believe that it would be contrary to the health, safety or welfare of the child to receive child care services from that provider;

(iii) a child care provider chosen by a recipient must be validly licensed, properly registered or enrolled, as appropriate; and

(iv) a child care provider chosen by a recipient must permit a child's caretaker to have: unlimited and on demand access to such child; the right to inspect, on demand and at any time during the hours of operation of the home or facility, all parts of such home or facility used for child care or which could present a hazard to the health or safety of a child; unlimited and on demand access to the provider(s) caring for such child whenever such child is in care and during the normal hours of operation; and, unlimited and on demand access to written records concerning such child except where access to such records is otherwise restricted by law.

(2) A recipient who chooses a caregiver of legally-exempt in-home child care who will be providing such care in a child's own home must be advised of the recipient's responsibility to provide such provider with all employment benefits required by State and/or Federal law and the recipient's responsibility to pay the provider at least the minimum wage if required by State and/or Federal law.

(3) The child care services provided must be reasonably related to the hours of employment, education or training of a child's caretaker, as applicable, and permit time for delivery and pick-up of the child. Up to eight

hours of child care services may be provided, if needed, to enable an employed caretaker who works a second or third shift to sleep if the social services district indicates in its consolidated services plan or integrated county plan that it will provide such services.

(4) When arranging child care services, the needs of the child must be taken into account including: continuity of child care; reasonable proximity of the care either to the child's home and school or to the child's caretaker's place of employment, education or training, as applicable; and, the appropriateness of the child care to the child's age and special needs.

(5) No child may be moved by a social services district from an existing placement with an eligible provider unless the recipient of child care services consents to such move; provided, however, that a social services district may require that a child receiving child care services as part of a preventive case or a child protective case be moved from an existing placement with an eligible provider if the district has reason to believe that it would be contrary to the child's health, safety or welfare to continue receiving child care services from that provider.

(6) A current list of the licensed or registered child day care providers located in the social services district must be maintained and made available to applicants for and recipients of child care services.

(7) Social services districts must inform public assistance recipients that:

(i) the exemption from work requirements for lack of child care, if applicable, will not extend the time limitations on the receipt of family assistance; and

(ii) the recipient will not be sanctioned for failure to comply with work requirements as long as the recipient can demonstrate an inability to find child care in accordance with section 415.8 of this Part. The information provided to the recipient must include the definitions and procedures set forth in such section.

(8) A social services district must notify applicants for and recipients of public assistance of the guarantee for child care services and for transitional child care services available to applicants or recipients that choose child care services in lieu of public assistance. Recipients of public assistance also must be informed of their potential eligibility for the guarantee for transitional child care services when their public assistance benefits are terminated. Such notification must describe the actions an applicant or recipient must take to obtain the guaranteed transitional child care services. A social services district may not require that an applicant or recipient reapply to receive the guaranteed transitional child are services as long as the family remains eligible for child care services.

(9)

(i) The social services district shall allow, disallow, or defer a claim for reimbursement, submitted by an eligible provider to the social services district, for the purpose of providing child care services pursuant to this Part within 30 days of receiving such claim.

(ii) The social services district may defer a claim for reimbursement only in the following circumstances:

(a) Upon the recommendation of a federal, state, or local agency, when the agency has informed the social services district that continued payments of such claims place the social service district at risk of making payments for services that were not provided in accordance with the applicable state regulations, or

(b) After an initial review of the claim by the social services district revealed inaccuracies in the claim that warrant a more detailed review, or

(c) Upon notification of the existence of a pending criminal charge involving fraud.

(iii) The social services district may disallow payment for claims for services provided to any and all children receiving a child care subsidy for the time period in which:

(a) an enrolled provider is found by the Office to be operating or have operated a child care program, required to be licensed or registered with the Office, without obtaining such license or registration, or

(b) a licensed or registered provider is found by the Office to be operating or have operated over its licensed or registered capacity, or

(c) an enrolled informal provider is found by the Office to be caring or have cared for more children than the limits defined in section 415.1(h).

(d) Jurisdiction.

(1) When a family which is guaranteed child care services moves from one social services district to another social services district within the State, the new social services district of residence is responsible for paying for the family's child care services beginning with the second full month that the family lives in that district, provided the family continues to be eligible for guaranteed child care services. The former social services district is obligated to continue to pay for the guaranteed child care services during the month the family moves to the other district and the first full month following the month the family moved.

(2) Notwithstanding paragraph (1) of this subdivision, if a social services district continues to have responsibility for providing public assistance benefits for a family which has moved to another district, such as when the parent(s) or caretaker relative(s) is required to attend a substance abuse program located in another district, the district which is responsible for the public assistance benefits remains responsible for all child care services needed for any child(ren) of that parent(s) or caretaker relative(s) who moves to live with, or be near, the parent(s) or caretaker relative(s).

(3) When a child(ren) is placed in foster care in a social services district outside of the district where the child(ren) resided at the time of placement, and the foster family needs child care services for the foster child(ren) and the foster family is eligible to receive such services pursuant to section 415.2(a) of this Part, the district that has financial responsibility for the foster child(ren) will be responsible for providing child care services for the foster child(ren).

(4) For all other families not described in paragraph (1), (2) or (3) of this subdivision, the social services district where a family resides will be responsible for providing child care services.

(e) Administration.

(1) In the case of providers from whom or from which the social services district purchases child care services, contracts, when required by section 405.3 of this Title, will be negotiated in accordance with the purchase of service requirements set forth in such section; provider budgets may be reviewed and attendance and payment records will be monitored.

(2) Required reports and claims for reimbursement must be prepared and submitted in the form and manner and at the times as required by the office.

(3) Records required to be maintained by the State and Federal law and by instructions of the office must be retained as appropriate. Under this subdivision, local districts must keep and retain adequate claiming records, retain appropriate documentation in the recipient's case file, and make appropriate records available for audit by appropriate State and Federal agencies.

(4) Social services districts may alter their participation in activities related to arranging for, subsidizing, delivering, and monitoring the provision of subsidized child day care, provided that the total participation of an individual district in all activities related to the provision of subsidized child day care must be no less than the participation level engaged in by such individual district on the effective date of this section, to be determined based on a review of expenditures for the calendar year January 1, 1990 through December 31, 1990.

(5) The social services district is responsible for reporting to the office, in the form and manner and at the times required by the office, specific information regarding child care services, including, but not limited to, the number of children receiving each specific child care services, the costs of such services separated by the type of child care providers used, and any additional information required for the State to meet Federal reporting requirements.

(6) Each social services district must submit a child care services plan to the office for approval as part of the district's multi-year consolidated services plan or integrated county plan and any annual implementation reports, in the form and manner and at the times required by the office. A social services district must implement its child care services programs in accordance with the child care services plan approved by the office.

(f) Enrollment of caregivers of informal and legally-exempt group child care. A social services district may only make payments for child care provided by caregivers of informal or legally-exempt group child care if the caregiver has been enrolled by a legally-exempt caregiver enrollment agency on either a temporary or final basis in accordance with this subdivision. Each social services district must provide a child's caretaker that has applied for or is receiving child care subsidies under the New York State Child Care Block Grant and who is interested in using a caregiver of legally-exempt child care with an enrollment package and notify the caretaker that the completed package must be submitted to the applicable legal-exempt caregiver enrollment agency.

(1) Each legally-exempt caregiver enrollment agency must establish procedures for enrolling, for payment purposes, a caregiver of informal child care or a caregiver of legally-exempt group child care, as defined in section 415.1 of this Part, who or which chooses to provide child care services under the New York State Child Care Block Grant Program. Such enrollment procedures must:

(i) collect only such information about the caregiver as determined by the Office of Children and Family Services to be necessary to make payments and to furnish information to the caregiver or to a recipient;

(ii) facilitate appropriate and prompt payments; and

(iii) permit the caregiver to enroll with the legally-exempt caregiver enrollment agency after selection by a recipient.

(2) Each legally-exempt caregiver enrollment agency must distribute health and safety information as specified by the office to all newly enrolled caregivers of informal child care and caregivers of legally- exempt group child care.

(3)

(i) Prior to enrolling or re-enrolling a caregiver of informal child care or a caregiver of legally-exempt group child care, the legally-exempt caregiver enrollment agency must review the enrollment package obtained from the caregiver and determine, within 10 days of receiving the enrollment package, whether the enrollment package is complete and the caregiver is exempt from the State's child day care licensing and registration requirements.

(ii) If the caregiver is exempt from the State's child day care licensing and registration requirements, and the completed checklist and attestations in the enrollment package do not raise any immediate concerns, the legally-exempt caregiver enrollment agency must enroll the caregiver on a temporary basis until the legally-exempt caregiver enrollment agency completes a full review of the package. The legally-exempt caregiver enrollment agency must notify the applicable social services district of the enrollment of the legally-exempt caregiver on a temporary basis.

(iii) The legally-exempt caregiver enrollment agency must complete a full review of the enrollment package within 40 days of receiving the completed enrollment package to determine whether the caregiver meets the enrollment requirements including the basic health and safety requirements set forth in paragraph (7) of this subdivision and the additional requirements for informal child care caregivers set forth in paragraph (8) of this subdivision, if applicable. The legally-exempt caregiver enrollment agency must notify the applicable social services district of its final determination regarding the enrollment of the legally-exempt caregiver.

(iv) Caregivers enrolled with a social services district on or before the effective date of these regulations, must document compliance with the requirements set forth in paragraph (7) of this subdivision and the additional requirements for informal child care caregivers in paragraph (8) of this subdivision, if applicable, before or as part of the next redetermination of eligibility for child care services for a child in the caregiver's care.

(v) Enrollment information must be updated and reviewed at least annually and at any other time when a change in circumstances warrants such a review including but not limited to when the caregiver seeks to serve another child. The legally-exempt caregiver enrollment agency only must verify any changes that have occurred to the caregiver's enrollment information since the last enrollment package was submitted.

(4) If the caregiver is exempt from the licensing and registration requirements and the caregiver otherwise meets the qualifications set forth in section 415.1(h) or (i) of this Part, and meets the basic health and safety requirements set forth in paragraph (7) of this subdivision and the additional requirements for informal child care set forth in paragraph (8) of this subdivision, if applicable, or integrated county plan, then the legally-exempt caregiver enrollment agency must enroll the caregiver for the purpose of providing child care services to eligible families under the New York State Child Care Block Grant Program unless the applicable social services district informs the legally-exempt caregiver enrollment agency that the caregiver does not meet a locally-defined additional requirement set forth in the social services district's consolidated services plan or integrated county plan in accordance with subdivision (h) of this section.

(5) A caregiver of informal child care or a caregiver of legally-exempt group child care must be enrolled with the legally-exempt caregiver enrollment agency before payment is made to such caregiver by a district for providing child care services under the New York State Child Care Block Grant Program.

(6) Each legally-exempt caregiver enrollment agency must maintain an automated roster, in the New York State Child Care Facilities System, of the caregivers of informal child care and caregivers of legally-exempt group child care enrolled with such legally-exempt caregiver enrollment agency including the name and address of each such caregiver and information about the caregiver's compliance with the enrollment requirements at such time and in manner and form required by the office.

(7) Basic health and safety requirements for caregivers of informal or legally-exempt group child care.

(i) At the time of applying for enrollment and for re-enrollment, the caregiver must furnish a sworn statement indicating whether, to the best of his or her knowledge, such caregiver, any employee of the caregiver, and any volunteer who has the potential for regular and substantial contact with children in care, and, for caregivers of legally-exempt family child care, each household member age 18 or older, has ever been convicted of a misdemeanor or a felony in New York State or any other jurisdiction. Prior to furnishing the caretaker and the legally-exempt caregiver enrollment agency with such information, the caregiver shall inquire of each such employee, volunteer and household member regarding whether that person has ever been convicted of a misdemeanor or any felony in New York State or any other jurisdiction.

(a) When a caregiver, indicates that he or she or such an employee, volunteer or household member has been convicted of a crime, the caregiver must give the caretaker and the legally-exempt caregiver enrollment agency true and accurate information about the crime which will enable the caretaker and the legally-exempt caregiver enrollment agency to evaluate whether the criminal background poses an unreasonable risk to the safety or welfare of the child(ren). Such information must include, but is not limited to, the nature of the crime, the penalties imposed as a result of the conviction, and the length of time which has elapsed since the conviction.

(b) No person convicted of a felony or misdemeanor against children or, for caregivers of legally-exempt family child care, whose household includes an individual convicted of such a crime may be enrolled by a legally-exempt caregiver enrollment agency as a child care caregiver.

(c) No legally-exempt informal child care program or legally-exempt group child care program which employs an individual or uses a volunteer convicted of a felony or misdemeanor against children may be enrolled by a legally-exempt caregiver enrollment agency as a child care caregiver.

(d) A legally-exempt caregiver enrollment agency may enroll a caregiver who has been convicted or whose employee, volunteer or household member has been convicted of other felony or misdemeanor offenses, consistent with guidelines issued by the office for evaluating applicants with criminal conviction records.

(ii) The caregiver must furnish the child's caretaker with true and accurate information, in writing, indicating whether, to the best of the caregiver's knowledge, such caregiver, any employee of the caregiver, any volunteer who has the potential for regular and substantial contact with children and, for caregivers of legally-exempt family child care, any household member age 18 or older, has ever

been the subject of an indicated report of child abuse or maltreatment in New York State or any other jurisdiction. Prior to furnishing the caretaker with such information, the caregiver shall inquire of each such employee, volunteer and household member regarding whether that person has ever been the subject of an indicated report of child abuse or maltreatment. The caregiver must furnish the child's caretaker with information regarding any such indicated report including a description of the incident, the date of the indication and any other relevant information.

(iii) To be enrolled by a legally-exempt caregiver enrollment agency to provide child care services under the New York State Child Care Block Grant Program, a caregiver of informal child care or a caregiver of legally-exempt group child care which is not required to be operated under the auspices of another Federal, State or local government agency must attest and certify in writing:

(a) whether, to the best of his or her knowledge, the caregiver has ever been denied a license or registration to operate a school-age child care program, day care center, family day care home or group family day care home, or had such a license or registration suspended or revoked. If a caregiver indicates that he or she has been denied such a license or registration or had such a license or registration suspended or revoked, the caregiver must provide true and accurate information to the child's caretaker and the legally-exempt caregiver enrollment agency about the reasons for the denial, suspension or revocation. A legally-exempt caregiver enrollment agency must determine whether to enroll a caregiver who has had such a license or registration denied, suspended or revoked, based on guidelines issued by the office; and

(b) whether the caregiver has ever had his or her parental rights terminated, or had a child(ren) removed from his or her care by court order under article 10 of the Family Court Act. If a caregiver indicates that he or she has had his or her parental rights terminated or has had a child(ren) removed from his or her care by court order under article 10 of the Family Court Act, the caregiver must provide true and accurate information regarding the reasons underlying the loss of parental or custodial rights. A legally-exempt caregiver enrollment agency must determine whether to enroll a caregiver who has had his or her parental rights terminated or has lost custody of a child(ren) by court order under article 10 of the Family Court Act, based on guidelines issued by the office.

(iv) To be enrolled with a legally-exempt caregiver enrollment agency to provide child care services under the New York State Child Care Block Grant Program, a caregiver of legally-exempt group child care must attest and certify in writing either that:

(a) the caregiver is legally operating under the auspices of another Federal, State or local government agency; or

(b) if the caregiver of legally-exempt group child care is not required to operate under the auspices of another Federal, State or local governmental agency, then the caregiver must meet the additional health and safety requirements set forth in subparagraphs (iv) and (v) of this paragraph.

(v) To be enrolled by a legally-exempt caregiver enrollment agency to provide child care services under the New York State Child Care Block Grant Program, a caregiver of informal child care or a caregiver of legally-exempt group child care which is not required to be operated under the auspices of another Federal, State or local governmental agency also must attest and certify in writing, and the

child's caretaker must attest and certify in writing, that the caregiver meets and has agreed to continue to meet the following basic health and safety requirements:

(a) The caregiver and all children have two separate and remote ways to escape in an emergency.

(b) Rooms for children are well-lighted and well-ventilated. Heat, ventilating and lighting equipment are adequate for the protection of the health of the children.

(c) The caregiver will use barriers to restrict children from unsafe areas. Such areas include, but are not limited to, swimming pools, open drainage ditches, wells, holes, wood and coal burning stoves, fireplaces and permanently installed gas space heaters.

(d) Where child care is provided on floors above the first floor, windows on floors above the first floor are protected by barriers or locking devices to prevent children from falling out of the windows.

(e) Adequate and safe water supply and sewage facilities are provided and comply with State and local laws. Hot and cold running water is available and accessible at all times.

(f) The caregiver certifies that the caregiver and each employee and each volunteer with the potential for regular and substantial contact with children in care is physically fit to provide child care and are free of any communicable disease and, for caregivers of legally-exempt family child care, that all persons residing in the home are free of any communicable disease unless the caregiver's or household member's health care provider has indicated that the presence of a communicable disease does not pose a risk to the health and safety of the children in care. If the legally-exempt caregiver enrollment agency has reasonable cause to suspect that the information provided by the caregiver is incorrect, the legally-exempt caregiver enrollment agency may require that the caregiver submit a statement from a physician, physician's assistant or nurse practitioner verifying the information.

(g) Suitable precautions will be taken to eliminate any conditions in areas accessible to children that pose a safety hazard.

(h) All matches, lighters, medicines, drugs, cleaning materials, detergents, aerosol cans and other poisonous or toxic materials are stored in their original containers and used in such a way that they will not contaminate play surfaces, food or food preparation areas or constitute a hazard to children. Such materials will be kept in a place inaccessible to children.

(i) The caregiver will ensure that each child receives meals and snacks in accordance with the plan developed jointly by the caregiver and the child's caretaker.

(j) Perishable food, milk and formula will be kept refrigerated.

(k) When the caregiver cares for infants, formula, breast milk and other food items for infants will not be heated in a microwave oven.

(l) The caretaker of a child will have unlimited access to the child, and to the premises when the child is in care and to written records regarding the child.

(m) Evacuation drills will be conducted at least monthly with the children during the hours that children are in care.

(n) The caregiver will never use corporal punishment or allow others to use corporal punishment while children are in care.

(o) The caregiver will never use or be under the influence of alcohol or drugs while children are in care and will make sure that children are not exposed to individuals using drugs or alcohol while in care.

(p) The caregiver will not smoke or allow smoking in indoor areas while children are in care or in vehicles while children are being transported.

(q) The caregiver will never leave children unsupervised or in the care of individuals who are not authorized to supervise the children.

(r) The caregiver has either a working telephone or immediate access to one. Emergency telephone numbers for the fire department, local or State Police or sheriff's department, poison control center and ambulance service are posted conspicuously on or adjacent to the telephone.

(s) Protective caps, covers or permanently installed obstructive devices are used on all electrical outlets that are accessible to young children.

(t) Paint and plaster are in good repair so that there is no danger of children putting paint or plaster chips in their mouths or of it getting into their food.

(u) There is one operating smoke detector on each floor of the home or facility. Such detectors will be checked regularly to insure proper operation.

(v) The home or facility is equipped with a portable first aid kit that is accessible for emergency treatment. The first aid kit is stocked to treat a broad range of injuries and situations and will be restocked as necessary. The first aid kit and any other first aid supplies are kept in a clean container or cabinet not accessible to children.

(w) The caregiver will not give child care to any child unless the caregiver has been furnished with a statement signed by a physician or other authorized individual who specifies that the child has received age appropriate immunizations; or a statement signed by a physician or other authorized individual who indicates that one or more of the immunizations would be detrimental to the child's health, or the child's caretaker provides a statement indicating that the child has not been immunized due to the caretaker's religious beliefs.

(x) Stairs, railings, porches and balconies are in good repair.

(y) The caretaker and the caregiver certified in writing that to the best of their knowledge, all statements made on the enrollment or re-enrollment form and any attachments thereto are accurate and true. Any false information, certified and attested to by the caregiver or the caretaker on either the enrollment or re-enrollment form or any attachment thereto, may result in the caregiver being denied enrollment or the termination of the caregiver's

enrollment by the legally-exempt caregiver enrollment agency and/or the social services district terminating child care subsidy payments and/or taking legal action against the caregiver or caretaker.

(z) The caregiver may not administer medication to any child in his or her care except to the extent that the caregiver is authorized under the Education Law to administer medications or has met the requirements for the administration of medications as defined in section 418-1.11 of this Title.

(8) Additional health and safety requirements for caregivers of informal child care.

(i) A legally-exempt caregiver enrollment agency must refer a caregiver of informal child care to the child and adult care food program (42 USC 1758, 1759[a], 1762[a], 1765, and 1766) at initial enrollment of any caregiver not currently enrolled, or at the annual re-enrollment of any currently enrolled caregiver. If the caregiver is or becomes a participant in the child and adult care food program, the caregiver must provide the legally-exempt caregiver enrollment agency with a copy of documentation of participation in the program. A legally-exempt caregiver enrollment agency must verify the caregiver's documentation to determine whether the caregiver is a participant in the child and adult care food program.

(ii) Upon applying for enrollment, and as part of the annual re-enrollment process, a legally-exempt caregiver enrollment agency must verify the information in the attestation of each caregiver of informal child care to determine if the caregiver's parental rights have been terminated, or if a child(ren) was removed from his or her care by court order under article 10 of the Family Court Act.

(a) The legally-exempt caregiver enrollment agency will request that the applicable social services district conduct a child welfare database check of the caregiver and provide the applicable social services district with such available information about the caregiver as is necessary to complete the database check to determine whether the caregiver has had his or her parental rights terminated or had a child removed from his or her care by court order under article 10 of the Family Court Act. The district must provide the legally-exempt caregiver enrollment agency with the results of the child welfare database check within 15 days of receiving the request.

(1) When the check of the district's child welfare data base reveals that the caregiver has had his or her parental rights terminated or had a child removed from his or her care by court order under article 10 of the Family Court Act, the district shall provide the specific office mandated information on the foster care and/or court records concerning the caregiver's termination of parental rights and the removal of the child from the caregiver's home to the legally-exempt caregiver enrollment agency for the purposes of determining whether to enroll the caregiver.

(2) When the check of the district's child welfare data base reveals that the caregiver has had his or her parental rights terminated or had a child removed from his or her care by court order under article 10 of the Family Court Act, the caregiver must provide the caretaker and the legally-exempt caregiver enrollment agency true and accurate information regarding the reasons underlying the loss of parental or custodial rights, if such information has not already been provided to the caretaker and the legally-exempt caregiver enrollment agency. A legally-exempt caregiver

enrollment agency must determine, based on guidelines issued by the office, whether to enroll a caregiver who has had such a loss of parental or custodial rights.

(iii) Upon applying for enrollment, and as part of the annual re-enrollment process, a legally exempt caregiver enrollment agency will:

(a) Check each caregiver against the office's child care facility system to determine whether the caregiver has ever been denied a child day care license or registration or had a child day care license or registration suspended or revoked. When the check of the office's child care facility system reveals that the caregiver has been denied a child day care license or registration or had a child day care license or registration revoked or suspended, the caregiver must provide the caretaker and the legally-exempt caregiver enrollment agency true and accurate information regarding any such denial, revocation or suspension, including a description of the reason for denial, revocation or suspension, the date of the denial, revocation or suspension, and any other relevant information, if such information has not already been provided to the caretaker and the legally-exempt caregiver enrollment agency. A legally-exempt caregiver enrollment agency must determine whether to enroll a caregiver who has had such a license or registration denied, suspended or revoked based on guidelines issued by the office.

(b) Check each caregiver of informal child care, any employee of the caregiver, any volunteer who has the potential for regular and substantial contact with children in care, and for caregivers of legally-exempt family child care, each household member age 18 or older against the New York State Sex Offender Registry maintained by the New York State Division of Criminal Justice Services, via the Registry's toll free telephone number to determine if such caregiver, any employee of the caregiver, any volunteer who has the potential for regular and substantial contact with children in care, and for caregivers of legally-exempt family child care, each household member age 18 or older is listed on the New York State Sex Offender Registry. When the New York State Sex Offender Registry reveals that a caregiver, any employee of the caregiver, any volunteer who has the potential for regular and substantial contact with children in care, or for caregivers of legally-exempt family child care, a household member is listed on the Sex Offender Registry for committing a sex offense, the legally-exempt caregiver enrollment agency may not enroll such a caregiver.

(iv) On an annual basis, the applicable legally-exempt caregiver enrollment agency must conduct on-site inspections including reviewing the immunization records of at least 20 percent of the currently enrolled legally-exempt family child care caregivers, as defined in this Part, in the applicable district who do not participate in the child and adult care food program to determine whether such caregivers are in compliance with the health and safety standards set forth in this section.

(a) The office will provide by January 31st of each year to the legally-exempt caregiver enrollment agency instructions for compiling a list of the caregivers that must be inspected and a minimum unduplicated number of providers that must be inspected. The legally-exempt caregiver enrollment agency must complete the inspections and report the results of the inspections in a manner and format as specified by the office by December 31st of each year.

(b) If the legally-exempt caregiver enrollment agency finds that a caregiver is non-compliant with any requirements of this section, the legally-exempt caregiver enrollment agency will assist the caregiver in working towards compliance, in the manner and according to the timeframes established by the office. If the caregiver does not come into compliance with the requirements within the required timeframes, the legally-exempt caregiver enrollment agency will terminate the enrollment of the caregiver and notify the appropriate district of that the caregiver's enrollment has been terminated.

(g)

(1) Where a social services district is subsidizing child care services pursuant to any of the provisions of this Part, the district may submit to the office justification for a need to impose additional requirements on child care providers providing subsidized child care services and a plan to monitor compliance with such additional requirements. A social services district may make participation in the child and adult care food program a condition of enrollment for each caregiver of informal child care who will be providing an average in excess of 30 hours of care per week to one or more subsidized children provided the district sets forth this requirement in the district's consolidated services plan or integrated county plan. No such additional requirements or monitoring may be imposed without the written approval of the office.

(2) To the extent that a social services district has established any additional standards for caregivers of legally-exempt child care, the district's monitoring process must include procedures for notifying the applicable legally-exempt caregiver enrollment agency if the district determines that such a caregiver is not in compliance with an additional standard. Any such procedures established by the social services district may not extend the timeframes set forth in subdivision (f) of this section for legally-exempt caregiver enrollment agency to review an enrollment package.

(h)

(1) A social services district may refuse to allow a child care provider that is not in compliance with this section and regulations promulgated by the Office, or any approved additional requirements of the social services district, to provide subsidized child care services to a child.

(2)

(i) A social services district may disqualify a provider from receiving payment for child care services provided under the child care subsidy program if a provider:

(a) is criminally convicted of fraud;

(b) is found to be civilly liable for fraud;

(c) has voluntarily admitted to filing a false claim for reimbursement for child care services;

(d) has been disqualified from the Child and Adult Care Food Program, by the New York State Department of Health and/or its sponsoring agency, for submission of false information on the application, submission of a false claim for reimbursement or failure to keep required records;

(e) has failed to comply with the terms of a repayment plan with the social services district, or

(f) has a conviction of any activity that occurred in the past seven (7) years that indicated a lack of business integrity; or

(g) has been found by a social services district, after the social services district has conducted an administrative review in accordance with clause (ii) of this subparagraph, to have submitted a false claim(s) to a social services district for reimbursement.

(ii) An administrative review by a social services district must include the following:

(a) A review of the claims submitted to the social services district and any other information or documentation obtained by the social services district to determine the accuracy of the information contained in the claims; and if a social services district determines after such a review that a provider submitted inaccurate information in the claims, then a preliminary review report must be prepared by a social services district and sent to the child care provider that is the subject of the review for a response.

(b) A child care provider must be given 20 days, from the date the district sent the preliminary review report to respond to the report. A child care provider may respond in writing presenting evidence and arguments that the provider believes refute the findings of the preliminary review report, or may request a formal review by a social services district, which allows a provider, in person, to present evidence and arguments in support of his/her position.

(c) If no response from a provider is received by a social services district within 20 days from the date of the postmark of the preliminary review report, the report may be finalized by a social services district. A final report, issued under this subclause, may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(d) If a response from a provider is received by a social services district within 20 days from the date of the postmark of the preliminary report, the social services district must review and evaluate the response and may make appropriate changes based on the response from the provider, before issuing a final review report. Upon completion of the review, the social services district shall issue a final review report, such report must be sent to the child care provider that is the subject of the review.

(e) A child care provider, upon receipt of a final review report, must be given 10 days from the date of the postmark of the final review report to respond, and to request a formal review by the social services district. A final review report issued under this subclause, where a provider does not request a formal review within the 10-day specified timeframe, or does not provide a response that disproves the findings of said report, may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(f) A social services district, upon receipt of a request for a formal review by a provider found in a final review report to have submitted inaccurate claims, must conduct such a review within 30 days of receipt of the request.

(g) A social services district at a formal review must allow a provider, in person, to present evidence and arguments in support of the provider's position.

(h) A social services district, after a formal review and after reviewing the evidence and arguments supplied by a provider at a formal review must make a final determination of whether a provider submitted false claims. A final determination that a provider submitted false claims may be the basis for a social services district to disqualify a provider from providing subsidized child care.

(iii) A provider who has been disqualified from receiving payment for child care services provided under the child care subsidy program by a social services district under clause (i) of this subparagraph is ineligible to receive such payments through any social services district for five years from the date of the disqualification, if such a provider made full restitution of any and all falsely obtained funds to the social services district. If such a provider did not make full restitution to a social services district, then the provider will remain ineligible to provide subsidized child care.

(iv) A social services district that disqualifies a provider from receiving a payment for child care services provided under the child care subsidy program must provide appropriate information concerning the disqualification to the appropriate regional office of the Office's Division of Child Care Services if the provider is a licensed or registered day care provider, or to the appropriate legally-exempt caregiver enrollment agency if the provider is a legally-exempt child care provider.

(3) In accordance with a plan approved by the Office, a social services district will have the right to make announced or unannounced inspections of the records and premises of any provider that provides care for subsidized children, including the right to make inspections prior to subsidized children receiving care in a home where the inspection is for the purpose of determining whether the child care provider is in compliance with applicable laws and regulations and any additional requirements imposed on such a provider by the social services district. A social services district must notify the Office immediately of any violations of regulations and must provide the Office with an inspection report documenting the results of such inspection.

(4) Nothing contained in this Part will diminish the authority of the local social services district from referring a matter to the appropriate district attorney or law enforcement agency.

(i) Overpayments.

(1) The social services district must take all reasonable steps to correct promptly any overpayments for child care services to a child's caretaker or a child care provider.

(2) Overpayments must be recovered through:

(i) repayment by the child's caretaker or child care provider; or

(ii) by recovery through a reduction in the amount of the payment to the child's caretaker or child care provider; provided, however, that no recovery of overpayments may be made from a child care provider where a contract for such child care services obligates the social services district to make full payment. When no recovery may be made from a child care provider because a contract requires full payment, and repayment is not made from the child's parent or caretaker, Federal

financial participation (FFP) and State reimbursement cannot be claimed for such overpayment.

(3) In recovering overpayments for child care services from child care recipients, social services districts must ensure that the child care recipients retain, for any month, a reasonable amount of funds.

(4) Recoupment of such overpayment can be made only from child care benefits unless the child care recipient voluntarily requests that such recovery be made from his or her available income.

(5) Overpayments must be recovered from the caretaker(s) on whose behalf the payments were made or the provider(s) who received payment for such services, so long as caretaker(s) or provider(s) are deemed responsible for such overpayments whether by acts of omission or commission.

(6) Overpayments to child care providers or former recipients of child care services who refuse to repay may be recovered in accordance with the legal remedies available under State law.

(7) When an overpayment occurs as a result of a district's failure to act promptly on information provided by a parent or caretaker regarding circumstances affecting child care benefits, no recovery shall be made from the party who provided such information. When a recovery cannot be made under this subdivision, Federal financial participation (FFP) and State reimbursement cannot be claimed for such overpayment.

(8) Underpayments and overpayments may be offset against each other.

(9) In all cases involving current child care services recipients, in all cases of fraud, and in all cases where the overpayment would equal or exceed the cost of recovery of the overpayment, the recovery of an overpayment must be attempted.

(10) Each social services district must collect and maintain information on the collection of overpayments and make appropriate adjustments when claiming FFP and State reimbursement, and when satisfying the district's maintenance of effort requirement under the New York State Child Care Block Grant Program as set forth in section 415.7 of this Part.

(11) An applicant for child care services who has not repaid past overpayments for previous child care services that resulted from:

(i) the failure of the applicant, or member(s) of the applicant's family unit, to promptly notify the social services district of a change in circumstances; or

(ii) from child care services fraud by the applicant or member(s) of the applicant's family unit must agree to, and comply with, a plan to make full payment of such overpayments as a condition of being eligible for the new child care services.

(12) With the exception of child care services authorized as a child protective or preventive service, a recipient of child care services who fails to agree to a reasonable plan for repayment or recovery of an overpayment, or who fails to comply with an agreed upon plan, must have their child care benefits suspended or terminated until such time as the recipient comes into compliance with such a plan.

(13) With the exception of child care services authorized as a child protective or preventive service, a recipient or former recipient of child care services who has been convicted of, or has voluntarily admitted to, fraudulently receiving child care services must have their child care services, if any, suspended or

terminated and will not be eligible for subsequent child care services for a period of time determined in accordance with the time periods established for intentional program violations set forth in section 359.9(a) of this Title. If such recipient or former recipient is a recipient of temporary assistance and needs child care in order to participate in an activity required by the social services district, the disqualification of eligibility for child care services based on the former fraud conviction or voluntary admission will be suspended during the recipient's or former recipient's participation in the required activity. However, the disqualification period will begin or resume once the recipient or former recipient is no longer participating in a required activity.

(14) Overpayments for child care services made as a result of payment for aid continuing for a caretaker who loses a fair hearing must be recovered as prescribed in this subdivision.

(j) Due process requirements.

(1) Written notice of the determination of eligibility, the family share to be paid by the applicant, or ineligibility for child care services, as well as any modifications thereto, must be sent to the applicant or recipient in accordance with section 404.l(f) of this Title. Recipients of child care services must receive timely and adequate notice of any change in child care services, except that changes in the manner of payment for child care services by a social services district may be made with only adequate notice pursuant to section 358-3.3 of this Title, unless those changes result in a discontinuation, suspension, reduction or termination of such benefits, or force a change in child care arrangements.

(2) An applicant for or recipient of child care services must be notified of the right to a fair hearing in accordance with Part 358 of this Title whenever there is a determination affecting his or her family's eligibility for child care services.

(k) Nothing contained in this Part will diminish the authority of the office to conduct inspections of licensed or registered child care providers or to provide for such inspections through purchase of services in accordance with section 390 of the Social Services Law. Nothing contained in this subdivision will obligate the office to take any action to enforce any additional requirements imposed by a social services district on child care providers providing care to children receiving child care subsidies.

(l) Social services districts must describe how they will examine and verify the accuracy of information contained in the enrollment forms completed by legally-exempt providers. This information must be described in the district's consolidated services plan or integrated county plan.

(m) Each social services district must establish comprehensive fraud and abuse control activities for the district's child care subsidy program. A social services district must provide details on its comprehensive fraud and abuse control activities in the district's consolidated services plan or integrated county plan, which must include, but not be limited to:

(1) identification of the criteria the social services district will use to determine which child care subsidy applications suggest a higher than acceptable risk for fraudulent or erroneous child care subsidy payments and procedures for referring such applications to the district's front end detection system;

(2) a sampling methodology to determine which cases the social services district will seek verification of an applicant or recipient's continued need for child care including, as applicable, verification of participation in employment, education or other required activities; and

(3) a sampling methodology to determine which caregivers of subsidized child care services the social services district will review for the purpose of comparing the caregiver's attendance forms for children receiving subsidized child care services and any child and adult care food program inspection forms to verify that child care was actually provided on the days listed on the attendance forms.

## 415.5. Methods of making payment for child care services.

(a) Each social services district may provide child care services directly or may pay for such services in accordance with the provisions of this section applicable to the particular child care services program.

(1) For child care services provided under the New York State Child Care Block Grant Program, payment may be made by one or more of the following methods:

(i) by advance cash payments, cash reimbursements or vouchers to the child's caretaker for care provided by an eligible provider and supported by a bill signed by both the child's caretaker and the provider; provided, however, that a caregiver of informal child care or of legally-exempt group child care must be enrolled with the social services district pursuant to section 415.4 of this Part before payment may be made for such services; or

(ii) by a purchase of services contract or letter of intent in accordance with section 405.3 of this Title, or by advance cash payments, cash reimbursements or vouchers to an eligible provider; provided, however, that a caregiver of informal child care or of legally-exempt group child care must be enrolled with the social services district pursuant to section 415.4 of this Part before payment may be made for such services.

(2) The provisions in section 159 of the Social Services Law precluding the payment of cash assistance for certain families in receipt of safety net assistance do not apply to the payment of child care services for such families.

(3) A social services district must establish at least one method of payment by which payment for child care services arranged by the child's caretaker can be made.

(b) [Reserved]

(c) For child care services provided under Title XX of the Federal Social Security Act or provided as child protective services or preventive services funded other than under the New York State Child Care Block Grant Program, payment must be made by a purchase of services contract or letter of intent in accordance with section 405.3 of this Title.

(d) Attendance and payment records must be monitored for all providers receiving payment for child care services regardless of the method of payment.

## 415.6. State reimbursement.

(a) A change in the rate of payment based on a change in the age of a child is effective in the first full month following the date in which the child becomes 11/2 years of age or the date of the child's birthday, whichever is applicable.

(b) Reimbursement for payment on behalf of children who are temporarily absent from child care is allowable subject to the following conditions:

(1) The provider rendering the child care services must be duly licensed, registered or enrolled to provide child care services and the social services district has opted to make such payments. If a social services district opts to make such payments, it may choose to make such payments either to those child care providers with which the social services district has a contract or letter of intent only, or to all providers of subsidized child care services except for caregivers of informal child care. The social services district must specify in its consolidated services plan or integrated county plan whether it opts to make such payments and, if applicable, for which providers such payments will be made.

(2) The social services district has specified in its contract or written agreement with the provider or through written notice to the provider that payment is allowable in cases of temporary absences from child care.

(3) Except in cases of extenuating circumstances defined below, temporary absences from child care are allowed up to 12 days in any one calendar month; provided, further, that such absences may total no more than 12 days in any three-month period if the social services district selects a three-month period for determining maximum temporary absences, or 24 days in any six-month period if the social services district selects a six-month period for determining maximum temporary absences.

(4) Extenuating circumstance means a situation or occurrence verified by the social services district, and noted in the child's services plan, in which a child is temporarily absent from child care for one or more of the following reasons:

(i) the social services district determines that the child is unable to attend child care because it is necessary for the child or the child's caretaker to appear in court or to keep other appointments related to the provision of preventive, foster care, adoption, or child protective services, or other needs as set forth in the child's services plan;

(ii) the child is ill, has a handicapping or other condition which requires medical care and/or treatment, or the child requires routine medical care and/or treatment;

(iii) the child's family is homeless, and the homelessness necessitates the child's absence from child care; or

(iv) the child's caretaker is participating in an approved education or training program and the child's absences coincide with a temporary suspension of such program for purposes including, but not limited to, holidays, school conferences and snow days.

(5) Where it is determined that an extenuating circumstance or circumstances exists, reimbursement for temporary absences due to such circumstance or circumstances will be permitted for an additional three days in any one calendar month; provided, further, that all absences may total no more than 20 days in any three-month period if the social services district selects a three-month period for determining maximum temporary absences, or 40 days in any six- month period if the social services district selects a six-month period for determining maximum temporary absences.

(6) Under no circumstances will reimbursement for temporary absences be permitted in excess of the limits set forth in paragraph (5) of this subdivision unless the office and social services district expressly consent to such reimbursement.

(7) A social services district must select one of the alternative periods in paragraph (3) of this subdivision as the basis on which it will maintain records and seek reimbursement. No combination of methodologies is permitted within a district. Once a methodology is selected, no change may be made until the end of the annual program year as defined in the Comprehensive Annual Social Services Program Plan.

(8) For purposes of this section, a social services district may establish the three-month or the six-month periods used in determining maximum temporary absences on either of the following bases:

(i) beginning on the date of a child's admission to child care and ending three or six months later depending on the period selected; or

(ii) beginning on a fixed calendar date for all children entering child care and ending three or six months later depending on the period selected. If this basis is chosen, a child entering child care during a quarterly or semiannual cycle may, during that initial cycle, receive a prorated number of days of absence beginning on the date of entry and ending on the last day of the quarterly or semiannual cycle. All temporary absences thereafter will be computed using the normal quarterly or semiannual cycle.

(9) Reimbursement is not available for a day a child is absent from care if the provider ordinarily charges the caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives subsidized child care from a different provider on the same day.

(c) Reimbursement for payments to licensed or registered or legally-exempt group programs during program closures also is allowable subject to the following conditions:

(1) The social services district has opted to make such payments. If a social services district opts to make such payments, it may choose to make such payments either to those child care providers with which the social services district has a contract or letter of intent or to all providers of subsidized child care services except for caregivers of informal child care. The social services district must specify in its consolidated services plan or integrated county plan whether or not it opts to make such payments and, if applicable, for which providers such payments will be made.

(2) The program closure is due to a State, Federal or nationally recognized holiday or due to extenuating circumstances beyond the provider's control including but not limited to:

(i) natural disaster;

(ii) severe weather; or

(iii) other emergency closings that are due to circumstances other than a substantiated regulatory violation.

(3) Reimbursement is available only for children in receipt of a child care subsidy who would otherwise be present at the child care program.

(4) Reimbursement is not available for a day the program is closed if the provider ordinarily charges the caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives subsidized child care services from a different provider on the same day.

(5) The maximum number of days allowable under this section is five per annum.

(6) The district must maintain a record of the payments made under this provision for each provider in order to receive reimbursement.

(d) Special reimbursement requirements specific to the Title XX Social Services Block Grant Program.

(1) State reimbursement for child care services provided under Title XX of the Federal Social Security Act will be available for 100 percent of allowable costs up to the amount of the social services district's annual Title XX Social Services Block Grant allocation, or as otherwise provided by State law.

(2) When a client is determined to be eligible for child care services under the Title XX Social Services Block Grant, payment must be claimed for reimbursement in accordance with the State instructions relating to such title.

(e) Payments by a social services district for child day care, informal child care and legally- exempt group child care are subject to reimbursement only when the following requirements are met:

(1) Payments do not exceed the actual cost of care. For purposes of this Part, the actual cost of care is:

(i) for care provided pursuant to a contract between the social services district and the provider, the payment rate set forth in the contract;

(ii) for care provided other than pursuant to a contract between the social services district and the provider, the amount charged to the general public for equal care in the providing facility or home; provided, however, if the facility or home cares only for subsidized children, then the actual cost of care is the amount the provider currently is receiving from the social services district for such children unless the provider can demonstrate to the social services district that the actual cost of providing care to such children is higher than that amount.

(2) Payments for child day-care or child care services for eligible families/children do not exceed the amount charged to the general public for equal care in the providing facility or home.

(3) Payments per child for child day care in a day care center (DCC), a family day care home (FDC), a group family day care home (GFDC), a school-age child care program (SACC) and for informal child care and legally-exempt group child care do not exceed the applicable rates for the type of child care provider used and the age of the child set forth in section 415.9 of this Part.

(4) Payments cannot be made when such care is provided by a child's parent, stepparent, legal guardian, caretaker relative, person in loco parentis to the child, or another member of the child care services unit other than the child's sibling.

(5) Payments cannot be made when such care is provided by a member of the public assistance unit including essential persons as referred to in section 369.3(c) of this Title.

## 415.7. Additional requirements for the New York State Child Care Block Grant Program.

(a) For child care services provided under the New York State Child Care Block Grant Program. State reimbursement to a social services district will be available, up to the social services district's annual block grant allocation for 75 percent of allowable costs for child care services provided to families in receipt of public assistance and for 100

percent of allowable costs for child care services provided to all other eligible families. Allowable program costs include the following costs of providing child care services:

(1) eligibility determinations and re-determinations;

(2) participation in adjudicatory and judicial hearings;

(3) child care placements including transportation to such placements;

(4) inspection, review and supervision of child care placements including monitoring compliance with any additional local child care requirements imposed pursuant to section 415.4(f) of this Part;

(5) training of social services district staff; and

(6) the establishment of computerized child care information systems.

(b) A social services district must expend its allocation from the New York State Child Care Block Grant in a manner that provides for equitable access to child care services funds to eligible families.

(c) A social services district may spend no more than five percent of its annual block grant allocation for administrative activities. The term administrative activities does not include the costs of providing child care services set forth in subdivision (a) of this section. Administrative activities include, but are not limited to the following:

(1) providing local officials and the public with information about the program;

(2) conducting public hearings;

(3) monitoring program activities for compliance with program requirements;

(4) maintaining substantiated complaint files;

(5) coordinating the resolution of audit and monitoring findings;

(6) evaluating program results;

(7) managing or supervising persons with responsibilities set forth in paragraphs (1) through (6) of this subdivision;

(8) travel costs incurred for official business in carrying out the program; and

(9) other costs for goods and services required for the administration of the program including rental or purchase of equipment, utilities, and office supplies.

(d) Any claims for child care services made by a social services district for expenditures during a particular Federal fiscal year, other than claims made under Title XX of the Federal Social Security Act, will be counted against the social services district's New York State Child Care Block Grant for that Federal fiscal year. A social services district's New York State Child Care Block Grant allocation for a particular Federal fiscal year is available only for child care services expenditures made during that Federal fiscal year that are claimed in the form and manner and

at such times required by the office. Any portion of a social services district's New York State Child Care Block Grant allocation for a particular Federal fiscal year that is not claimed by the time required by the office will be available to the district for New York State Child Care Block Grant expenditures for the next Federal fiscal year.

(e) Each social services district must maintain the amount of local funds spent for child care assistance under the New York State Child Care Block Grant Program at a level equal to or greater than the amount the district spent for child care assistance during Federal fiscal year 1995 under title IV-A of the Federal Social Security Act, the Federal Child Care and Development Block Grant Program and the State Low Income Child Care Program. Each social services district's claims submitted under the New York State Child Care Block Grant will be processed in a manner that maximizes the availability of Federal funds and ensures that the district meets its maintenance of effort requirement in each applicable Federal fiscal year.

(f) When offering child care services under the New York State Child Care Block Grant Program to a family eligible to receive such services, a participating social services district must offer the child's caretaker the choice either:

(1) to enroll the child with an eligible child day care provider which has a contract with the social services district for the provision of such services; or

(2) to receive a child care certificate, as defined in section 415.1(p) of this Part, which permits the child's caretaker to arrange child care services with any eligible provider.

(g) When a child's caretaker elects to use a child day care provider which has a contract with the social services district for the provision of child care services, the child must be enrolled with the provider selected by such caretaker to the maximum extent practical.

(h) When a child's caretaker elects to use a child care certificate to arrange child care services, the social services district must issue such certificate directly to the caretaker.

## 415.8. Special provisions relating to public assistance recipients.

(a) A social services district must guarantee child care services to a family who has applied for or is in receipt of public assistance when such services are needed for a child under 13 years of age in order to enable the child's custodial parent or caretaker relative to participate in activities required by a social services official pursuant to title 9-B of article 5 of the Social Services Law.

(b) A social services district may not reduce or terminate public assistance to an individual or an individual and the family of such individual based on a refusal of the individual to comply with applicable work requirements if the individual is a custodial parent or caretaker relative of a child under 13 years of age and the individual has a demonstrated inability, as determined by the social services district, to obtain child care needed to comply with such work requirements due to the following reasons:

(1) unavailability of appropriate and accessible child care within a reasonable distance from the individual's home or work site;

(2) unavailability or unsuitability of informal child care by a relative or under other arrangements; and

(3) unavailability of appropriate and affordable formal child care arrangements.

(c) The social services district must inform the family:

(1) about the exception to the penalties associated with the work requirement if the family is unable to locate child care needed to comply with applicable work requirements including the procedures used to demonstrate an inability to obtain child care and the definitions of the terms "appropriate," "accessible," "reasonable distance," "unsuitability of informal child care" and "affordable"; and

(2) that any family assistance received during the time the parent or caretaker relative receives an exception from the work requirements under this section will count toward the family's 60-month limit on receiving such benefits.

(d) It is the responsibility of the parent or caretaker relative to locate child care for the applicable child(ren) needed to comply with such work requirements.

(e) If such parent or caretaker relative cannot locate the needed child care on his or her own, the parent or caretaker relative must inform the social services district of his or her efforts to locate such care and request additional assistance in locating care.

(f) When a parent caretaker relative requests assistance from the social services district in locating child care due to an inability to locate the needed child care on his or her own, the social services district must:

(1) assist the family by referring the parent or caretaker relative to the child care resource and referral agency funded under title five-B of article six of the Social Services Law that is responsible for the areas in which the parent or caretaker relative lives and/or would be expected to work or to another appropriate child care referral agency; and/or

(2) provide the parent or caretaker relative with a list of names, addresses and telephone numbers of eligible providers.

(g) The parent or caretaker relative must follow-up on all referrals from the social services district, child care resource and referral agency and/or other child care referral agency, as applicable, and must report his or her success or failure to the social services district. In order to be excused from complying with the applicable work requirements, the parent or caretaker relative must have a demonstrated inability, as determined by the social services district, to locate the needed child care for the applicable child(ren) despite the referrals from the social services district, the child care resource and referral agency and/or any other child care referral agency, as applicable.

(h)

(1) If the parent or caretaker relative has a demonstrated inability, as determined by the social services district, to locate the child care needed for the applicable child(ren) despite such referrals, the social services district must offer the parent or caretaker relative two choices of eligible child care providers at least one of which must be a licensed or registered provider.

(2) If the parent or caretaker relative is unwilling to accept child care services from either of these providers; is unable to demonstrate, as determined by the social services district, that such child care is not appropriate, accessible, suitable, affordable or a reasonable distance from the individual's home or work site; and the individual fails to comply with the applicable work requirements, then the social services district may reduce or terminate public assistance to such parent or caretaker relative and/or that individual's family in accordance with applicable statutory or regulatory provisions.

(i) A social services district must determine that a parent or caretaker relative has a demonstrated inability to locate needed child care if all of the following conditions are met:

(1) the parent or caretaker relative has provided an attestation that he or she has contacted those accessible and suitable friends, neighbors and relatives who are within a reasonable distance of the individual's home or work site and who have the potential to act as informal child care providers for the applicable child(ren) but those individuals are not appropriate or affordable. The attestation must include a list of the friends, neighbors and relatives the parent or caretaker relative contacted; and

(2) the parent or caretaker relative has provided an attestation that he or she has contacted all of the child care providers to which the parent or caretaker relative was referred by the social services district, a child care resource and referral agency and/or any other child care agency, as applicable. The attestation must specify each potential provider contacted and the reasons why that provider is not appropriate, accessible, suitable, affordable or a reasonable distance from the individual's home or work site.

(j) The social services district must review and verify the attestations provided by the parent or caretaker relative. If the attestations validly document the unavailability of appropriate, accessible, suitable, affordable child care within a reasonable distance from the individual's home or work site, the district must excuse the parent or caretaker relative from the applicable work requirements.

(k)

(1) A parent or caretaker relative who has been excused from the applicable work requirements due to a demonstrated inability to locate needed child care for his or her applicable child(ren) will be excused from the work requirements only for so long as that demonstrated inability continues to exist.

(2) The parent or caretaker relative must document to the social services district, through the submission of new attestations in accordance with subdivision (h) of this section on a periodic basis as set forth by the social services district, that the parent or caretaker relative is continuing to attempt to locate the needed child care including following up on all new referrals from the social services district, child care resource and referral agency, and/or any other child care agency, as applicable, and by responding to all offers of child care from the social services district. New attestations must be submitted in accordance with a schedule developed by the district based on the parent's or the caretaker relative's employment plan.

(l) For the purposes of this section, the following definitions apply:

(1) Applicable child(ren) means the child(ren) under 13 years of age who are residing with a custodial parent or caretaker relative and who need child care in order for the parent or caretaker relative to comply with the applicable work requirements.

(2) Appropriate means the child care provider(s) is open for the hours and days the parent or caretaker relative would need child care in order to comply with the applicable work requirements and the provider(s) is able and willing to provide child care services to the applicable child(ren) including addressing any special needs of the applicable child(ren).

(3) Accessible means the parent or caretaker relative is able, by available public or private transportation, to get the applicable child(ren) to and from the child care provider(s) taking into consideration the age and any special needs of the child(ren).

(4) Reasonable distance means the child care provider(s) is located within a reasonable distance from the

parent or caretaker relative's home and work activity, based on locally accepted community standards, as defined by the social services district in the district's consolidated services plan.

(5) Unsuitability of informal child care means the physical condition of the home in which care would be provided, or the physical or mental condition of the informal provider, would be detrimental to the health, welfare and/or safety of the applicable child(ren).

(6) Affordable means the parent or caretaker relative would have sufficient income to pay the family share for the child care services determined in accordance with section 415.3(f) of this Part, if required, and/or to pay the cost of care above market rate, if applicable. If the potential provider is a provider of informal child care who would be providing care in the child(ren)'s home, affordable also means that the parent or caretaker relative would have sufficient income to pay the provider at least minimum wage, if required by State and/or Federal law, and to provide such provider with all employment benefits required by State and Federal law.

## 415.9. Rates.

A social services district has the option to apply the weekly or daily rate, except as provided below, when care is provided for 30 or more hours per week on five or less days. When care is provided for less than 30 hours per week, the daily, part-day or hourly rates must be applied, as applicable.

(a) Weekly rates must be applied when care is provided for 30 or more hours for five or less days per week. Weekly rates also must be applied when child care services are provided for 30 or more hours per week by a child care provider who routinely charges nonsubsidized parents on a weekly basis and who has not signed a purchase of service contract or other written agreement for payment on a different basis.

(b) Daily rates must be applied if care is provided for at least six but less than twelve hours per day, and care is provided for less than 30 hours per week. When child care services are provided for 30 or more hours per week by a child care provider who routinely charges nonsubsidized parents on a daily basis and who has not signed a purchase of service contract or other written agreement for payment on a different basis, the weekly rates divided by five must be applied.

(c) Part-day rates must be applied when the child care services are provided for at least three but less than six hours per day. Part-day rates also must be applied for children who are provided care before and/or after school for less than three hours per day by day care centers or school-age child care programs that do not charge on an hourly basis.

(d) With the exception noted in subdivision (c) of this section, the hourly rates in this section must be applied when child care services are provided for less than three hours per day.

(e) Where child care services provided by a single provider exceed one weekly or daily period as set forth in this section, payment for the additional child care services will be based on the actual cost of care up to the applicable rate for the type of child care provider used, the age of the child and the amount of time the child care services are provided.

(f) Where child care services are provided by multiple providers, reimbursement will be made for the actual cost of such services up to the applicable rate for each child care provider used. However, if the combined reimbursement to the multiple providers would exceed one weekly market rate, in order to receive such

reimbursement the parent or caretaker must demonstrate that the schedule of employment of the parent or caretaker or the special needs of the child necessitates that child care services be arranged with multiple providers. If the social services district determines that the parent or caretaker has not demonstrated that there is a necessity to use multiple providers, reimbursement is limited to one weekly market rate that is applicable for the type of provider who provides care for the highest number of hours. The social services district will determine how to distribute the reimbursement for the multiple providers.

(g) The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

(h) A social services district may establish differential payment rates for child care services provided by regulated child care providers that have been accredited by a nationally recognized child care organization. A social services district may also establish differential payment rates for any eligible provider as defined in section 415.1(h) of this Part for child care services provided during nontraditional hours (evening, night or weekend hours). The differential payment rates established by the district may be up to 15 percent higher than the applicable market rates set forth in these regulations. The differential payment rates the district sets for accredited programs may be different than the rates set for care provided during nontraditional hours. The social services district must indicate in the district's consolidated services plan or integrated county plan the percentage above the applicable market rate(s) that it opts to allow for accredited programs and/or for care provided during nontraditional hours. A social services district may request a waiver from the office to establish a payment rate that is in excess of 15 percent above the applicable market rate upon a showing that the 15 percent maximum is insufficient to provide access within the district to accredited programs and/or care provided during nontraditional hours, as applicable.

(i) The rate of payment for caregivers of legally exempt group child care is the actual cost of care up to the applicable market rate for day care center providers as set forth in this section.

(j)

(1) Effective October 1, 2011, the following are the local market rates for each social services district set forth by the type of provider, the age of the child and the amount of time the child care services are provided per week.

(2) Upon the effective date of these regulations, there will be two market rates for the legally-exempt family child care and in-home child care categories, a standard market rate and an enhanced market rate. The standard market rate for legally-exempt family child care and in-home child care categories will be 65 percent of the applicable registered family day care market rate. The enhanced market rate for legally-exempt family child care and in-home child care categories will be 70 percent of the applicable registered family day care market rate. The enhanced market rate will apply to those caregivers of legally-exempt family child care and in-home child care who have provided notice to, and have been verified by, the applicable legally-exempt caregiver enrollment agency or by the district for those portions of the district that are not covered by a legally-exempt caregiver enrollment agency, as having completed 10 or more hours of training annually in the areas set forth in section 390-a(3)(b) of the Social Services Law. A social services district has the option, if it so chooses in the child care portion of its child and family services plan, to increase the enhanced market rate for eligible legally-exempt family child care and in-home child care categories to up to 75 percent of the applicable registered family day care market rate:

(i) for all such providers;

(ii) for those providers who were receiving the enhanced rate on the date of the regulations but only for the remainder of their current one-year enrollment period; or

(iii) for those providers who were receiving the enhanced rate on the date of the regulations for the remainder of the time they remain enrolled and continue to meet the 10 hour annual training requirement. The standard market rate will apply to all other caregivers of legally-exempt family child care and in-home child care.

(3) The market rates are established in five groupings of social services districts. The rates established for a group apply to all districts in the designated group. The district groupings are as follows*:

***See current market rates LCM for this information**

(k) When a social services district pays for child care services provided by an eligible provider located in another district, the applicable market rate is the rate for the district in which the child care provider is located.

### 415.10 Waivers.

A social services district may request a waiver of any non-statutory provision of this Part. The waiver must be described in the social services district's consolidated services plan or integrated county plan and must be approved by the Office prior to implementation.

### 415.11 Effective date.

(a) The amendments to Part 415 are effective immediately; provided, however, that a social services district has the option, with regard to existing child care services recipients only, to implement the provisions in sections 415.1(g) regarding the definition of child care services unit and/or section 415.5(c) regarding the pursuit of child support as follows:

(1) immediately; or

(2) at the next case action or at recertification, whichever occurs first.

(b) The social services district must indicate which option it chooses in its consolidated services plan or integrated county plan.

### 415.12 Eligible provider responsibilities.

(a) An eligible provider that provides child care services to families receiving child care subsidies must comply with the following requirements:

(1) An eligible provider must operate their child care program in compliance with the applicable Office regulations. Failure to operate in compliance with the Office regulations may result in the Office taking enforcement action pursuant to section 413.3 of this Title.

(2) An eligible provider, on a daily basis, must maintain current and accurate attendance records for each child showing the date of attendance with the time of arrival and departure. Full day absences must also be noted.

(3) An eligible provider must certify that all documentation and information provided to a social services district is accurate and true. Any false or fraudulent claims for payments by a provider may result in the deferral or disallowance of payment for such claims with a social services district, a referral to the Office for the revocation of a provider's registration or license, and/or referral for criminal prosecution.

(4) An eligible provider must not charge more for subsidized child care than the provider charges for non-subsidized care.

# New York Code, Rules and Regulations, Title 18, Part 404 *Determination and Redetermination of Eligibility*

New York State Code, Rules and Regulations, Part 404, *Determination and Redetermination of Eligibility for Social Services*, includes requirements that apply to eligibility determination for any of the services programs. Part 404 includes:

- The process of eligibility determinations
- Responsibility for eligibility determinations
- Verification of eligibility determinations
- Fees for services
- Authorization for services

This page intentionally left blank.

**NEW YORK CODES, RULES AND REGULATIONS**

*** THIS DOCUMENT REFLECTS CHANGES RECEIVED THROUGH SEPTEMBER 10, 2004 ***
TITLE 18. DEPARTMENT OF SOCIAL SERVICES
CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES
SUBCHAPTER C. SOCIAL SERVICES
ARTICLE 1. PROVISION OF SOCIAL SERVICES--GENERAL

# PART 404. DETERMINATION AND REDETERMINATION OF ELIGIBILITY FOR SOCIAL SERVICES

Part 404 Notes

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added Part 404 on 4/01/76.

## § 404.1 Process Of Eligibility Determination

(a) Method of determining eligibility. The social services district must adopt methods of determining eligibility which are consistent with the objectives of the program and must respect the rights of individuals under the United States Constitution, and the Social Security Act, title IV of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State law. The social services district must adopt safeguards in determining eligibility which prevent discrimination or adverse action against individuals with AIDS or an HIV infection or an HIV-related illness and individuals who have had an HIV-related test. The terms AIDS, HIV infection, HIV-related illness or HIV-related test are defined in section 360-8.1 of this Title.

(b) Provision of information to applicants. The social services district shall:

(1) provide applicants, recipients and others who may inquire with clear and detailed information concerning social services programs, eligibility requirements, documentation requirements, and the right to a fair hearing;

(2) inform each applicant and recipient at the time of application or redetermination of his initial and continuing responsibility:

(i) to provide accurate, complete and current information on income and family composition;

(ii) to provide accurate information relating to service needs, as requested, and to notify the district of any changes in such information;

(iii) to cooperate in the verification and documentation of eligibility whenever required;

(3) inform each applicant or recipient that he has the right to accept or reject services without consequence except as specified in this Title.

(c) Application for social services. (1) Each individual wishing to apply for social services shall be assured the opportunity to do so without delay.

(2) The application process must insure that all information, as prescribed by the department, which is necessary to establish eligibility is obtained. The required information may be obtained verbally, in writing on department approved forms, or electronically from the WMS or other department system. Information obtained verbally must be recorded by the interviewer. All information must be verified by the applicant. When an applicant for social services is currently receiving income maintenance or medical assistance benefits, any relevant existing information, including, but not limited to service goals and living arrangements, which is available through the WMS or other department system, must be used to avoid a duplication of efforts in the collection of information.

(3) The application process described in this Part must be used when a person applies for services described in Articles 1, 2 or 3 of Subchapter C of Chapter II of this Title.

(4) The application process may be initiated by the applicant himself or herself, his or her authorized representative, or someone acting responsibly for him or her.

(5) Except where required by Federal law or regulation, no person who applies for a social service shall be required to disclose the social security number of any person for whom the service is requested as a condition of eligibility for the service. However, nothing herein shall restrict the ability of a social services official to request that the applicant disclose the social security number of the person who will receive the service. If such a request is made, the applicant must be informed whether the disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited and the uses which will be made of the social securtiy number. A request for disclosure of the applicant's social security number may be made either orally or in writing.

(6) No person may be required to have an HIV-related test or required to disclose the results of such test as a condition of applying for services.

(7) An applicant who requests services, in whole or in part, on the basis of AIDS or an HIV-related illness may have such condition subject to verification by the local social services district acting in accordance with article 27-F of the Public Health Law.

(8) An application shall be required as a condition of authorization for any social service identified and defined in the district component of the comprehensive annual social services program plan except:

(i) No application is required for the provision of information and referral services, nonresidential services for victims of domestic violence and for social group services for senior citizens.

(ii) Completion of an application for protective services for children is required only after investigation of a report of alleged or suspected child abuse or neglect has determined that there is some credible evidence of abuse or neglect. An application may not be completed prior to such determination.

(iii) Completion of an application for protective services for adults is required only after the investigation and assessment of a protective service for adults referral have determined that an individual meets the client characteristics for adult protective services, unless an adult who is the subject of a request for protective services for adults, the adult's authorized representative, or someone acting responsibly for such adult disagrees with the decision of the district not to accept the request as a referral for protective services for adults, as defined in section 457.1(c)(2) of this Title. In such case, the adult, the adult's authorized representative, or someone acting responsibly for such adult may apply for protective services for adults in accordance with paragraph (1) of this subdivision. If an application for protective services for adults is submitted by an adult, an adult's authorized representative, or by someone acting responsibly for such adult, the application must be accepted and a determination of eligibility or ineligibility made in accordance with subdivision (f) of this section and section 457.13 of this Title.

(9) An application must be completed at the following times:

(i) when the applicant is making an initial application for services or care;

(ii) when reapplication is made 30 days after a services case is closed or an application for services is denied; and

(iii) no less often than every 12 months, when redetermining the eligibility of income-eligible recipients, except those individuals specified in clause (d)(2)(ii) (b) of this section.

(10) When an income maintenance or medical assistance case is closed but social services are to be continued, information contained in the WMS concerning the recipient must be made available to enable a determination of eligibility to be made. When additional information is necessary to determine continued eligibility for social services, the social services district may require that the social services recipient submit the additional information.

(11) When a recipient of services moves to another social services district and the recipient wants to continue to receive services, information contained in WMS concerning the recipient must be made available to the district to which the recipient moved in order for the district to determine whether the recipient remains eligible for the continuation of services. When additional information is necessary to determine continued eligibility, the social services district may require that the social services recipient submit the additional information.

(d) Time period for determination of eligibility. (1) Initial determination of programmatic and/or financial eligibility.

(i) A determination of programmatic and/or financial eligibility must be completed for all applications or reapplications for services within 30 days of the date of application, except for protective services for adults as set forth in Part 457 of this Title. Eligibility for protective services for adults must be determined at the time the protective services for adults assessment services plan is completed in accordance with section 457.2 (b) (4) of this Title.

(ii) Except for the provision of child care services to certain families transitioning from family assistance as set forth in section 415.2(a)(1)(iii) of this Title, and protective services for adults as set forth in Part 457 of this Title, no reimbursement will be available for the provision of services prior to the date of actual determination of programmatic and/or financial eligibility unless such determination is made within 30 days of the date of application and the individual is determined to have been programmatically and/or financially eligible when services were initiated. In no event may the date of eligibility precede the date of application except for the provision of child care to transitioning families as set forth in section 415.2(a)(1)(iii) and protective services for adults.

(2) Redetermination of programmatic and/or financial eligibility.

(i) Programmatic eligibility must be redetermined periodically but not less frequently than every 12 months, including State charge recipients of post-institutional service planning (PISP) who are receiving only follow-up visits as specified in paragraphs (a)(1)-(4) of section 313.2 of this Title. However, programmatic eligibility must be redetermined not less frequently than every six months for recipients of foster care services for children. The requirements regarding the periodic redetermination of programmatic eligibility as set forth in this section do not supersede or otherwise affect the requirements concerning the development, periodic review, and update and implementation of services plans or the client eligibility and monitoring activities for child care services as set forth in Part 415 of this Title or for protective services for adults as set forth in Part 457 of this Title.

(ii) Redeterminations of financial eligibility shall be made periodically, but not less frequently than:

(a) every 12 months for an income-eligible individual in receipt of services;

(b) every six months for a child or minor in receipt of foster care maintenance payments;

(c) every 12 months for an individual in receipt of services whose family gross income is derived exclusively from pensions or social security benefits or SSI or a combination thereof;

(d) every 12 months for a State charge PISP recipient residing in those facilities specified in paragraphs (a)(1)-(3) of section 313.2 of this Title who is receiving only mandated follow-up visits and/or contacts.

This subparagraph does not apply to a child or minor in receipt of adoption assistance or to a recipient of social group services to senior citizens. This subparagraph also does not apply to recipients of public assistance, including Emergency Assistance to Families (EAF), or medical assistance; provided, however, that the continuing eligibility of such recipients for services must be verified every 12 months by use of an on-line inquiry or appropriate system production reports in those social services districts where the public assistance, medical assistance and services components of the welfare management system have been installed. In all other social services districts, verification of continuing eligibility for such recipients must occur every 12 months, and must be documented in the case record and signed by the caseworker and case supervisor.

(iii) Redetermination of eligibility for social services which are made pursuant to the provisions of subparagraph (ii) of this paragraph shall not occur earlier than 30 days prior to the expiration of the periods specified in such subparagraph.

(iv) Redetermination of both financial and/or programmatic eligibility shall be made within 30

days of an indication of a change in an individual's circumstances which may render the individual ineligible or may change the degree of need for services.

(v) At the time of redetermination, current documentation shall be obtained to verify family size, categorical relationship, income, and continuing need for services, as appropriate.

(e) Documentation. (1) General. No determination of eligibility shall be made solely on the basis of the application. Documentation of the criteria and conditions essential for eligibility shall be part of the eligibility determination process. Documentation means the collection, verification and recording of information necessary to determine eligibility.

(i) Applications for services based on income maintenance status shall be supported by documentation of the actual receipt of, or eligibility for, the income maintenance benefit or payment.

(ii) Applications for services based on income eligible status shall be supported by documentation of current family size and monthly gross income as specified in section 404.5 (b) of this Part.

(iii) Applications for services based on need without regard to income shall be supported by documentation of the existence of the requisite programmatic factors except that no such documentation shall be required for the provision of information and referral.

(iv) All applications for service shall be supported by the documentation of the need for service as evidenced by an individual plan for service.

(v) If the application is filed by an applicant's authorized representative or someone acting responsibly for him, the relationship of the authorized representative or the responsible person to the applicant and the reasons for such representative filing shall be recorded.

(2) Documentation of eligibility based on income status.

(i) When an eligibility determination is based on a family's income status, the family size and the amount and source of each component of gross income as defined in section 404.5 (b) of this Part shall be identified and documented prior to a determination of eligibility for social services.

(ii) Family size need not be documented beyond the information on the signed application unless there is reason to suspect that the information is not correct.

(iii) Applicants shall be required to provide documentation for all income received.

(iv) Adequate documentation of gross income can include pay stubs, business records, and/or correspondence from employers, the Social Security Administration, Veterans Administration, State employment agencies, State welfare agencies and/or providers of pensions.

(3) Recording and maintenance of records. The social services district shall maintain for each applicant or recipient a record which contains, in accordance with the requirements of Part 406 of this Title, information necessary to support an eligibility determination.

(f) Notice of eligibility determinations. Written notice of determination of eligibility or ineligibility for service shall be sent to the applicant or recipient as follows:

(1) A notice of eligibility or ineligibility shall be sent to applicants or recipients within 15 calendar days after the determination has been made.

(2) A notice of eligibility must include information concerning the type of service to be provided, any required fee for services in accordance with section 404.6 (b) of this Part, the duration of service planned, the name of the worker or unit responsible for case management and his or her telephone number, a statement regarding the continuing responsibility of the applicant or recipient to report any change in his or her status and the right of the recipient to accept or reject the service(s).

(3) A notice of ineligibility shall include information concerning specific reasons for denial or termination and department policy on which the decision is based.

(4) All notices of determination of eligibility or ineligibility must include information concerning the right of an applicant or recipient to request a fair hearing and all other information required by section 358-2.2 of this Title.

(5) Written notice of determination of eligibility or ineligibility may not be required in the following situations:

(i) where, through a face-to-face interview, a determination is made to continue eligibility; or

(ii) where, in a foster care case, the child has been surrendered by the natural parent(s) or guardian and placed under the custody of the local commissioner of social services.

(g) Provision of services. When the service is authorized to be delivered, the social services district and the provider agency shall make provision for the delivery of the service(s) authorized within 15 calendar days after notification of eligibility.

Section statutory authority: Public Health Law, § A27-F

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.1 on 4/01/76; amended 404.1 on 3/17/78; amended 404.1 on 1/29/79; amended 404.1 on 9/18/79; amended 404.1 on 5/29/84; amended 404.1 on 10/20/85; amended 404.1 on 12/23/88; amended 404.1 on 8/21/89; amended 404.1 on 3/27/91; amended 404.1(c) on 6/02/93; amended 404.1(c)(7)(iii) on 8/25/93; amended 404.1(c)(8)(v) on 3/23/94; amended 404.1(c) on 12/04/96; amended 404.1(d)(1)(ii) on 3/03/04; amended 404.1(d)(2)(1) on 3/23/94; amended 404.1(d)(2)(ii) closing paragraph on 3/23/94.

**§ 404.2 Responsibility For Eligibility Determinations**

(a) The social services district shall be solely responsible for the determination of eligibility for services.

(b) If the acceptance of applications is delegated to a provider under a contract executed in accordance with the purchase of services requirements specified in section 405.2 of this Title, responsibility for eligibility determinations shall remain with the social services district; any requirements that a provider obtain and transmit to the social services district data necessary to make a determination of eligibility shall be specified in the purchase of services contract.

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.2 on 4/01/76.

## § 404.3 Verification Of Eligibility Determination

(a) The social services district shall establish procedures to verify the accuracy of eligibility determinations.

(b) The department will, through audits and case review on a sampling basis, conduct additional verification of social services district implementation and application of eligibility criteria.

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.3 on 4/01/76.

## § 404.4 Programmatic Eligibility

A social service defined in the comprehensive annual social services program plan and included for provision in the district component shall be provided only when the following programmatic conditions are met:

(a) Need for the service has been established by the social services district.

(b) The applicant for such service is included in a category of individuals specified in the comprehensive annual social services program plan to be eligible.

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.4 on 4/01/76.

**§ 404.5 Financial eligibility.**

(a) Income maintenance status.

(1) For purposes of financial eligibility for services, the following persons have income maintenance status:

(i) Recipients of ADC--an ADC recipient is any individual who is certified eligible for cash assistance under the ADC program and receives such payments during the period upon which eligibility for social services is based.

(ii) Individuals whose needs are taken into account in computing the grant for eligible persons under the ADC program--these include children and other relatives in the home not eligible for ADC in their own right but whose presence is significant to ADC recipients as "essential persons."

(iii) Recipients of SSI benefits including recipients of State supplementary payments--an SSI recipient is any individual who is certified eligible for cash assistance under the SSI program and receives such payments including State supplementary payments during the period upon which eligibility for social services is based.

(iv) Recipients of foster care or adoption assistance (FCAA)--an FCAA recipient is any child or minor certified eligible for foster care maintenance or adoption assistance who received such benefits during the period upon which eligibility for social services was based.

(v) Recipients of HR--an HR recipient is any individual who is certified eligible for cash assistance under the HR program and who received such payments during the period upon which eligibility for services is based.

(vi) Recipients of MA--an MA recipient is any individual who is certified eligible to receive a medical payment during the period upon which eligibility for services is based.

(2) Persons with income maintenance status shall be financially eligible for services in accordance with the provisions of the then effective comprehensive annual social services program plan.

(3) When financial eligibility for services is based on the income maintenance status of the applicant, such status shall be verified as of the date of application.

(b) Income eligible status.

(1) Individuals, other than those described in subdivision (a) of this section, must be

financially eligible for services on the basis of income eligibility status if the monthly gross income of the family is equal to or less than:

(i) the appropriate income eligibility level contained in the then effective consolidated services plan or integrated county plan;

(ii) for New York State Child Care Block Grant child care services, the financial eligibility requirements for such services established by the Office of Children and Family Services in accordance with section 415.2(a) of this Title.

(2) The determination of family monthly gross income shall be based on the average monthly income for a period of not less than one month nor in excess of three months prior to application, adjusted for any changes in income known or expected to occur during the period of authorization.

(3) If income fluctuates significantly, the average monthly amount shall be computed based on income received during a period of not less than three nor more than six months.

(4) Computation of monthly gross income shall be based on a factor of 41/3 of the weekly income.

(5) Monthly gross income means the monthly sum of income received from the following sources:

(i) Monthly wages or salary, i.e., total money earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues and similar purposes.

(ii) Net income for non-farm self-employment, i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes) and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

(iii) Net income form farm self-employment, i.e., gross receipts minus operating expenses from the operation of a firm by a person on his own account, as owner, renter or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, the incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farm hands, depreciation charges, cash rent, interest on farm building repairs, farm taxes (not State and Federal income taxes) and similar expenses. The value of fuel, food or other farm products used for family living is not included as part of net income.

(iv) Social security benefits include social security pensions and survivor benefits, and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement checks from the U.S. government.

(v) Dividends, interest (on savings or bonds) income from estates or trusts, net rental income or royalties, including dividends from stockholding or membership in associations, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental of a house, store or other property to others, receipts from boarders or lodgers and net royalties.

(vi) Public assistance or welfare payments include public assistance payments such as ADC, SSI (including State supplemental payments), and home relief.

(vii) Pensions and annuities include pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company, and periodic receipts from annuities or insurance.

(viii) Unemployment compensation means compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds.

(ix) Workers' compensation means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the individual.

(x) Alimony.

(xi) Child support.

(xii) Veterans' pensions means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so- called "refunds" paid to ex-servicemen as GI insurance premiums.

(6) Exclusions from monthly gross income. Excluded from computation of monthly gross income are the following:

(i) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;

(ii) money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be counted as income from self-employment);

(iii) withdrawals of bank deposits;

(iv) money borrowed;

(v) tax refunds;

(vi) gifts;

(vii) lump sum inheritances or insurance payments;

(viii) capital gains;

(ix) the value of coupon allotments under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;

(x) the value of USDA donated foods;

(xi) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act;

(xii) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(xiii) earnings of a child under 14 years of age (no inquiry shall be made);

(xiv) loans and grants such as scholarships obtained and used under conditions that preclude their use for current living costs;

(xv) any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act;

(xvi) home produce utilized for household consumption;

(xvii) payments made for child care services, or the value of child care services provided to a recipient of child care services provided under the New York State Child Care Block Grant Program and under title XX of the Social Security Act who is applying for or receiving any other services funded under any Federal or federally assisted program that bases eligibility for such services upon need or the amount of benefits upon need;

(xviii) veterans' assistance payments made to or on behalf of certain Vietnam veterans' natural adult or minor children for any disability resulting from spina bifida suffered by such children;

(xix) veterans' assistance payments made for covered birth defects to or on behalf of the

adult or minor children of women Vietnam veterans in service in the Republic of Vietnam during the period beginning on February 28, 1961 and ending on May 7, 1975. Covered birth defects means any birth defect identified by the Veterans' Administration as a birth defect that is associated with the service of women Vietnam veterans in the Republic of Vietnam during the period on February 28, 1961 and ending on May 7, 1975, and that has resulted or may result in permanent physical or mental disability; and

(xx) one-time $250 payments made under the American Recovery and Reinvestment Act of 2009 to social security, supplemental security income (SSI), railroad retirement benefits and veterans disability compensation or pension benefits recipients for 10 months from the date the payment was received, including the month payment was received.

(c) Eligibility without regard to financial circumstances. Notwithstanding subdivisions (a) and (b) of this section, individuals and families who are programmatically eligible for the following services will be determined to be eligible for such services without regard to financial eligibility criteria:

(1) information and referral services;

(2) protective services for adults;

(3) protective services for children;

(4) preventive services for children; and

(5) residential services for victims of domestic violence.

(d) Resources. Financial eligibility for services contained in the district component of the comprehensive annual social services program plan shall be based only on the monthly gross income of the family as defined in this section.

(1) No exploration of resources shall be made in the determination of eligibility for services.

(2) No lien or incumbrance of any kind shall be required from or be imposed against the property of any individual in connection with services rendered or to be rendered.

(3) No adjustment or recovery of the cost of services rendered shall be made.

## § 404.6 Fees For Services

(a) The social services district must impose and provide for the collection of such fees for service as are required in the then effective consolidated services plan or integrated county plan or, in the case of child care services, the family share for such services required by section 415.3(f) of this Title. Failure of the service recipient to pay a fee or family share as required in this section must lead to suspension or termination of the service for which the fee or family share was imposed and not paid unless, in the case of child care services, satisfactory arrangements have been made, prior to the suspension or termination of such services, for the service recipient to make full payment of all delinquent family shares. No subsequent application nor any reapplication by the service recipient for any service suspended or terminated by reason of the failure to pay a required fee or family share will be considered until such time as all delinquent fees are paid or, in the case of child care services, unless and until arrangements satisfactory to the social services district are made for the service recipient to make full payment of all delinquent family shares. Notwithstanding the foregoing, failure of the service recipient to pay a fee or family share must not be a basis for denial or discontinuance of services as part of a plan of protective services for an adult or a child or for preventing placement of a child in foster care.

(b) Methods of collection. (1) The social services district must advise the recipient in writing, at the time of the initial eligibility determination and each redetermination, of the required fee amount, the date(s) such fee is due and the payment procedures to be followed. The notice of the fee requirements must be included in the written notice of eligibility. A provider must also be notified when a recipient is required to pay a fee, if the provider is required to collect fees for the service. Such notification to the provider must contain the amount of the fee and the date(s) such fee is due.

(2) If a fee is not paid by the specified date, the social services district, or the provider, when appropriate, must immediately give a written notice of the fee past due in person or by mail to the service recipient. Such notice must include a warning of impending termination of the service for continued nonpayment and specify the time period within which such payment must be made or, in the case of child care services, the time period within which satisfactory arrangements for such payment must be made. Such time period may be no less than seven days and no more than 30 days. If payment is not received or, in the case of child care services if arrangements, satisfactory to the social services district, for full payment of delinquent fees by the service recipient, have not been made within the time period specified in the written notice that the fee is past due, then the social services district must give written notice of termination of service in person or by mail to the service recipient. The notice of termination of service must state that the service will be terminated 10 days subsequent to the date of the notice unless payment of all delinquent fees is received prior to the date of termination or, in the case of child care services, unless and until arrangements, satisfactory to the social services district, are made for the service recipient to make full payment of all delinquent fees. Copies of the warning and termination notices must be maintained in the recipient's basic data file.

(c) Claiming. Fees imposed upon service recipients in accordance with this section shall be deducted from the amount of expenditures for such services for which Federal and State reimbursement is claimed.

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.6 on 9/08/77; amended 404.6 on 3/27/91; amended 404.6(a) on 1/13/93; amended 404.6(a) on 3/03/04; amended 404.6(b) on 1/13/93.

## § 404.7 Authorization For Services

(a) An authorization for services to be provided either by the social services district directly or by purchase shall be required prior to the provision of any service. An authorization for services is not required for information and referral services, and other services where the eligibility determination is on the basis of group eligibility only.

(b) The social services district shall use form DSS-2562, Services Authorization/Reporting Record, as the basic authorization for all services. In addition, form DSS-638, or a local equivalent approved by the department, shall be completed for the purpose of authorization for services provided by purchase.

(c) Social services districts which are in the department's welfare management system shall use, for all services, form DSS-2970, Authorization for Services.

(d) An Authorization for Services shall require the following data as a minimum:

(1) name of recipient;

(2) identification of the basis for eligibility, i.e., income maintenance, income, or without regard to income status;

(3) identification of the service or services to be provided;

(4) identification of goal(s);

(5) period of authorization for the services to be provided which may be up to 12 months except as otherwise specified in sections 372.6, 415.6, and 457.1 of this Title;

(6) name and title of authorizing person; and

(7) for purchased services, the name of the provider shall be added.

(e) The social services district and/or the provider agency shall provide a service within 15 calendar days after making notification of eligibility to the applicant in the instances when a written application is taken, and within 30 calendar days after acceptance of a request for service in all other instances. Providing a service means actual provision of service or arrangement for its provision at an appropriate later date.

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.7 on 4/01/76; amended 404.7 on 1/29/79; amended 404.7 on 4/17/80; amended 404.7 (d)(5) on 3/23/94.

*** § 404.8 Definitions**

The following definition of family shall be used for all determinations and redeterminations of eligibility for services under this Part:

(a) Family means one or more adults and children, if any, related by blood or law, and residing in the same household. Where adults, other than spouses, reside together, each shall be considered a separate family. Emancipated minors and children living under the care of individuals not legally responsible for that care shall be considered one-person families.

(b) In the above definition, adult shall mean any person 18 years of age or older.

* NB Effective until May 15, 2004
* § 404.8 Definitions.

(a) The following definition of family must be used for all determinations and redeterminations of eligibility for services, other than child care services, under this Part:

(1) Family means one or more adults and children, if any, related by blood or law, and residing in the same household. Where adults, other than spouses, reside together, each shall be considered a separate family. Emancipated minors and children living under the care of individuals not legally responsible for that care shall be considered one-person families.

(2) In the above definition, adult shall mean any person 18 years of age or older.

(b) The definition of child care services unit set forth in section 415.1(f) of this Title must be used for all determinations and redeterminations of eligibility for child care services.

* NB Effective May 15, 2004

Statutory authority: Social Services Law, §§ 20, 34, 358, 390, 410, 473, 473-a

Added 404.8 on 12/01/82; amended 404.8(effective 05, 15, 04) on 3/03/04.

# 05-OCFS-ADM-03
# *Child Care Subsidy Program*

The purpose of 05-OCFS-ADM-03, *Child Care Subsidy Program* is to inform social services districts of the changes in the requirements for child care subsidies funded through the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act. Additionally, this Administrative Directive included requirements of the child care subsidy program not issued previously in an Administrative Directive or Local Commissioner's Memorandum.

**Note:** *The requirement to pursue child support has been repealed. Pursuit of child support is encouraged, but is no longer an eligibility requirement.*

This page intentionally left blank.

**George E. Pataki**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**John A. Johnson**
*Commissioner*

# Administrative Directive

| | |
|---|---|
| **Transmittal:** | 05-OCFS-ADM-03 |
| **To:** | District Commissioners |
| **Issuing Division/Office:** | Division of Development and Prevention Services |
| **Date:** | May 20, 2005 |
| **Subject:** | Child Care Subsidy Program |
| **Suggested Distribution:** | Directors of Services, Child Support and Temporary Assistance; Supervisors of Services, Child Support and Temporary Assistance; Child Care Assistance Staff; Accounting; WMS Coordinators; Domestic Violence Liaisons |
| **Contact Person(s):** | Questions pertaining to this ADM should be directed to the Office of Children and Family Services, Bureau of Early Childhood Services:<br>Anne Ball, (518) 474-3775 or E-mail: Anne.Ball@ocfs.state.ny.us<br><br>Questions pertaining to claiming should be directed to the Office of Temporary and Disability Assistance, Bureau of Financial Services:<br>Regions I-IV: Virginia Scala, (518) 474-7549 or Email: virginia.scala@otda.state.ny.us<br>Region V: Michael Borenstein, (631) 854-9704 or Email: michael.borenstein@otda.state.ny.us<br>Region VI: Marian Borenstein, (212) 961-8250 or Email: marian.borenstein@otda.state.ny.us |
| **Attachments:** | A: Guidelines For Review of Enrollment Forms for Provider of Legally-Exempt Care: History of Article 10 Removal; Termination of Parental Rights; and Denial, Revocation and/or Suspension of a Child Day Care License or Registration<br>B: OCFS-LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care<br>C: OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care<br>D: OCFS-LDSS-7009, Notice of Child Care Assistance Overpayment and Repayment Requirements<br>E: OCFS-LDSS-7010, Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan<br>F: OCFS-LDSS-7013, Child Support Requirements Notification Letter<br>G: OCFS-LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause |

| | Claim<br>H: OCFS-LDSS-7012, Notice of Good Cause Determination |
|---|---|
| **Attachments Available On–Line:** | ☒ |

Filing References

| Previous ADMs/INFs | | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|---|
| 05 OCFS ADM-01, 05 OCFS INF-02, 04 OCFS ADM-01, 04 OCFS LCM-09, 04 OCFS LCM-07, 03 OCFS LCM-19, 03 OCFS LCM-17, 03 OCFS INF-07 | 02 OCFS INF-05, 02 OCFS INF-01; 01 OCFS LCM-11, 01 OCFS LCM-08, 01 OCFS INF-8, 99 LCM-19, 92 LCM-138, 91 ADM-34 | 92 ADM-08 | 403, 404, 405, 415, 358-2, 358-3, 628.3 | SSL§ 332-a, 334, 335, 410 | | |

## TABLE OF CONTENTS

**I. PURPOSE** ..... **5**

**II. BACKGROUND** ..... **5**

**III. PROGRAM IMPLICATIONS** ..... **6**

**A. DEFINITIONS** ..... **7**
1. THE OFFICE ..... 7
2. CHILD CARE SERVICES ..... 7
3. ELIGIBLE CHILD ..... 7
4. CARETAKER ..... 7
5. CARETAKER RELATIVE ..... 7
6. INFORMAL CHILD CARE ..... 8
7. LEGALLY-EXEMPT GROUP CHILD CARE ..... 9
8. ELIGIBLE CHILD CARE PROVIDER ..... 10
9. CHILD CARE SERVICES UNIT ..... 11
10. FAMILY SHARE ..... 12
11. ENGAGED IN WORK ..... 12
12. SEEKING EMPLOYMENT ..... 12
13. CHILD WITH SPECIAL NEEDS ..... 12
14. PERSON IN LOCO PARENTIS TO A CHILD ..... 13
15. CHILD CARE CERTIFICATE ..... 13
16. STATE INCOME STANDARD (SIS) ..... 13

**B. ELIGIBILITY DETERMINATION AND REDETERMINATION** ..... **13**
1. APPLICATION FOR CHILD CARE ..... 13
2. DETERMINATION OF ELIGIBILITY ..... 14
3. DOCUMENTATION OF DECISION ..... 16
4. INCOME ..... 16
5. DATE OF ELIGIBILITY ..... 19
6. REDETERMINATION OF ELIGIBILITY ..... 19

**C. ELIGIBLE FAMILIES** ..... **20**
1. CATEGORIES OF ELIGIBLE FAMILIES UNDER THE NEW YORK STATE CHILD CARE BLOCK GRANT ..... 20
2. TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT ..... 24
3. CHILD CARE SERVICES DURING BREAKS IN PARENT/CARETAKER RELATIVE'S ACTIVITIES ..... 25
4. PRIORITY POPULATIONS, FUNDING SET ASIDES, WAITING LISTS, AND CASE CLOSINGS ..... 25

**D. RESPONSIBILITIES OF PARENT/CARETAKER** ..... **27**
1. APPLICATION FOR CHILD CARE ..... 27
2. ACTIVE PURSUIT OF CHILD SUPPORT ..... 27
3. CHOOSING A CHILD CARE PROVIDER ..... 28
4. FAMILY SHARE ..... 28
5. CHILD CARE NEEDED FOR PARTICIPATION IN APPROVED TRAINING ..... 28
6. IMMEDIATE NOTIFICATION WHEN A CHANGE OCCURS ..... 29

**E. RESPONSIBILITIES OF THE SOCIAL SERVICES DISTRICT** ..... **29**

1. Application ..... 29
2. Initial Eligibility ..... 29
3. Continuing Eligibility ..... 30
4. Child Care Service Requirements ..... 31
5. Family Share ..... 32
6. Enrollment of Legally-Exempt Providers ..... 33
7. Monitoring of Attendance and Payment Records ..... 36
8. Additional District Standards for Providers of Subsidized Child Care Services ..... 36
9. Payment to Non-Compliant Provider ..... 36
10. Due Process Requirements ..... 37
11. Jurisdictional Requirements ..... 37
12. Other Administrative Requirements ..... 38
13. Child Care Overpayments ..... 39
14. Fraud ..... 42
**F. Special Provisions Relating to Temporary Assistance Recipients ..... 43**
**G. Child Support Requirements ..... 46**
1. Responsibilities of Parent/Caretaker ..... 46
2. Actively Pursuing Child Support Through The CSEU ..... 49
3. Actively Pursuing Child Support Privately ..... 50
4. Lack of Information ..... 50
5. Good Cause ..... 51
6. Child Care Worker Responsibilities ..... 57
7. Child Support Worker Responsibilities ..... 65
8. Implementation Time frames ..... 66
**H. Method of Making Payments for Child Care Services ..... 67**
1. New York State Child Care Block Grant ..... 67
2. Title XX ..... 67
**I. Reimbursement for Child Care Expenditures ..... 67**
1. Payment for Children's Absences ..... 67
2. Program Closures-Licensed, Registered or Legally-Exempt Group Programs ..... 70
3. Registration Fees and Deposits ..... 71
4. Market Rates ..... 71
5. Special Needs Payments to Legally-Exempt Providers ..... 71
6. Payments for Transportation Expenses ..... 72
**J. Reimbursement for Claims ..... 72**
1. Maintenance of Effort - NYSCCBG ..... 72
2. Reimbursement Levels ..... 72

**IV. SYSTEMS INSTRUCTIONS ..... 73**

**V. CLAIMING INSTRUCTIONS ..... 74**

**VI. OTHER ..... 75**

**A. Waivers ..... 75**

**B. EFFECTIVE DATE** ..... **75**

## I. Purpose

The purpose of this Administrative Directive (ADM) is to inform social services districts (districts) of the changes in the requirements for child care subsidies funded through the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act. Additionally, this ADM includes requirements of the child care subsidy program not issued previously in an ADM or Local Commissioners Memorandum (LCM).

The OCFS forms provided as Attachments D, E, F, G and H of this ADM will be available shortly on the OCFS Intranet website under the Forms Section. The format of these forms, but not the content, may change when they are finalized and posted to the website. The five forms, that are Attachments D – H, can be printed directly from this ADM and used on an interim basis to support the requirements under the child care subsidy program. OCFS will issue a notice once the five respective forms are finalized, and available for downloading from the OCFS Intranet.

## II. Background

Changes to the regulations regarding the child care subsidy program, Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Parts 358 and 415 and Sections 403.1, 404.1, 404.5, 404.6, 404.8, 405.1, 405.2, 405.3, and 628.3, were adopted effective May 15, 2004. These regulations fully implement the provision of child care services under the Title XX Social Services Block Grant and the NYSCCBG program; and the federal statutory and regulatory requirements that govern the federal funds included in the NYSCCBG. NYSCCBG funds child care subsidies to families receiving Temporary Assistance[1] (TA) and to other low income families.

This ADM details those changes to regulatory requirements as well as other requirements of the child care subsidy program that have not been addressed in previous releases by the Office of Children and Family Services (the Office).

This ADM is not an all-inclusive guide to the requirements of the child care subsidy program. Districts should refer to the following list for additional guidance.

- 05 OCFS ADM-01 Administration of Medication by Legally-Exempt Child Care Providers: Revised Health and Safety Requirements for Legally-Exempt Family, In-Home and Group Child Care
- 05 OCFS INF-02 Consolidated Services Plan-2005 Income Eligibility Standards
- 04 OCFS ADM-01 Guaranteed Child Care in Lieu of Temporary Assistance; Payment During Breaks in Activities; Eligibility for Families in Post Secondary Education; No Application for Transitional Child Care
- 04 OCFS LCM-07 Child Care Market Rates
- 03 OCFS LCM-19 Guidelines and Instructions for Preparing County Service Plans
- 03 OCFS LCM-17 Legally-Exempt In-Home Child Care Providers as Employees

[1] The term "public assistance" has been replaced by the term "temporary assistance." Temporary Assistance encompasses Family Assistance, Safety Net Assistance and Veteran's Assistance.

- 03 OCFS INF-07 Application for Child Care Assistance
- 02 OCFS INF-05 Child Care Case Referrals to FEDS and EVR
- 02 OCFS INF-01 Former Child Assistance Families Eligible for Transitional Child Care Guarantee
- 01 OCFS LCM-11 Child Care: Revised Health and Safety Requirements for Legally-Exempt Child Care Providers
- 01 OCFS LCM-08 Revised Client Notification Forms for Child Care Subsidy
- 01 OCFS INF-08 Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee
- 99 LCM-19 Notice LDSS-4647: Important Information About Child Care
- 92 LCM-138 Child Care Certificate Program
- 91 ADM-34 Child Care: Reimbursement for Children with Special Needs

## III. Program Implications

Districts must operate child care subsidy programs in compliance with State statutes, regulations and policies. The following are highlights of significant changes to the child care subsidy program based on regulatory amendments:

- To be eligible for a child care subsidy, the child's parents/caretakers must demonstrate they have a child support order in place, be actively pursuing a child support order or have good cause not to pursue a child support order.
- New State health and safety requirements apply to informal and legally-exempt group child care providers.
- Amendments to 18 NYCRR 358-2 and 358-3 expand fair hearing rights to include all families that apply for or receive child care services.
- “Aid continuing” for child care services is available to all families in receipt of child care subsidies.
- Districts are no longer required to have a contract with a provider to pay for absences and now have the option to pay for days on which the program is closed.
- The Child Care Services Unit replaces the Services Family Unit in determining which family and household members’ needs and income are taken into account when determining child care eligibility and the amount of the family share.
- New definitions of “engaged in work” and “seeking employment” clarify circumstances under which certain families are eligible for child care services.
- Families in which a member has voluntarily admitted to or was convicted of child care fraud are subject to disqualification penalties similar to those applied in the Temporary Assistance program.

## A. DEFINITIONS

### 1. *THE OFFICE*

"The Office" means the New York State (NYS) Office of Children and Family Services.

### 2. *CHILD CARE SERVICES*

Child care services mean care for an eligible child provided on a regular basis either in or away from the child's residence for less than 24 hours per day, which is provided by an eligible provider. Child care services may exceed 24 consecutive hours when such services are provided on a short-term emergency basis or in other cases where the caretaker's approved activity necessitates care for 24 hours or more on a limited basis, if the district has indicated in its Consolidated Services Plan (CSP) or Integrated County Plan (ICP) that it will provide for such care.

### 3. *ELIGIBLE CHILD*

Eligible child means a child who resides with a parent/caretaker that meets the program and financial eligibility requirements for the particular type of child care services and who:

- is under 13 years of age. For child care services provided under Title XX of the federal Social Security Act or provided as a child protective service or a preventive service funded other than under the NYSCCBG program, a child who turns 13 years of age during a school year may continue to receive child care services through the end of that school year; or
- is under 18 years of age and is either a child with special needs or is under court supervision; or,
- is under 19 years of age, is a full-time student in a secondary school, or in an equivalent level of vocational or technical training, and is either a child with special needs, or is under court supervision.

### 4. *CARETAKER*

Caretaker means the child's parent, legal guardian or caretaker relative, or any other person in loco parentis who lives with a child.

### 5. *CARETAKER RELATIVE*

Caretaker relative means any person who is a custodial parent or other adult relative as set forth in 18 NYCRR section 369.1(b), who exercises responsibility for the day-to-day care of and who lives with a child.

The term custodial parent or other adult caretaker relative shall include the following, as applicable:

(a) the child's father, mother, brother, sister, grandfather, great-grandfather, great-great-grandfather, grandmother, great-grandmother, great-great-grandmother, uncle, great-uncle,

great-great-uncle, aunt, great-aunt, great-great-aunt, of whole or half blood;

(b) the child's first cousin, nephew and niece, of whole or half blood;

(c) the child's step father, step mother, step brother, step sister, but no other step relative;

(d) in the case of a child who has been surrendered to an authorized agency or who has been adopted:

  (i) any of the blood or step relatives included in the preceding paragraphs of this subdivision; and

  (ii) the child's adoptive parents and:

    (a) the other children of the adoptive parents and the children of such children;

    (b) the parents, grandparents and great-grandparents of the adoptive parents;

    (c) the brothers and sisters of the adoptive parents and the children of such brothers and sisters; and

    (d) the aunts, uncles, great-aunts and great-uncles of adoptive parents;

(e) the spouse of any person described in the preceding paragraphs of this subdivision, even though the marriage may have been terminated by death, divorce or annulment; and

(f) in the case of a child born out of wedlock, any relative in the maternal line included in the preceding paragraphs of this subdivision and, if paternity has been adjudicated or acknowledged in writing, any relative in the maternal and paternal lines included in the preceding paragraphs of this subdivision.

## 6. *INFORMAL CHILD CARE*

Informal child care includes legally-exempt family child care and legally-exempt in-home child care. Members of the child's or the caretaker's temporary assistance unit and other adult members of the child care service unit, except the child's siblings, are not eligible to provide subsidized child care.

Legally-exempt family child care means:

1. Child care for one or two children provided outside the child's own home in a residence by a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets requirements for the employment of minors as set forth in Article 4 of the NYS Labor Law, and who is chosen and whose services are monitored by the child's parent/caretaker; or
2. Child care for more than two children provided outside the child's own home in a residence by a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the NYS Labor Law, who provides such care for less than three hours per day and who is chosen and whose services are monitored by the child's parent/caretaker; or
3. Child care provided by a relative within the third degree of consanguinity of the parent or step-parent of the child except where such relative is a person legally responsible for, or the caretaker relative of, such child. Relatives within the third degree of consanguinity of the parents or step-parents of the child include:

- siblings of the child;
- grandparents of the child;
- great-grandparents of the child;
- great-great grandparents of the child;
- aunts and uncles of the child, including their spouses;
- great-aunts and great-uncles of the child, including their spouses; and
- first cousins of the child, including their spouses.

Legally-exempt in-home care means:

Child care furnished in the child's home by a caregiver who is chosen and monitored by the child's parent/caretaker and who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the NYS Labor Law. In addition, the child's parent/caretaker must pay the caregiver at least the minimum wage as set forth in Article 19 of the NYS Labor Law and provide the caregiver with all employment benefits required by State and/or federal law, including but not limited to Social Security and Workers' Compensation coverage.

## *7. LEGALLY-EXEMPT GROUP CHILD CARE*

Legally-exempt group child care refers to care provided by those caregivers, other than caregivers of informal child care, which are not required to be licensed by or registered with the NYS Office of Children and Family Services (the Office) or licensed by the City of New York but which meet all applicable State or local requirements for such child care programs.

Caregivers of legally-exempt group child care include, but are not limited to:

(1) pre-kindergarten and nursery school programs for children three years of age or older, and programs for school-age children conducted during non-school hours, operated by public school districts or by private schools or academies which provide elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law, provided that such pre-kindergarten, nursery school or school-age programs are located on the premises or campus where the elementary or secondary education is provided;

(2) nursery schools and programs for pre-school age children operated by non-profit agencies or organizations or private proprietary agencies which provide services for three or less hours per day;

(3) summer day camps operated by non-profit agencies or organizations or private proprietary agencies in accordance with Subpart 7-2 of the State Sanitary Code;

(4) day care centers, family day care homes and other child care programs located on federal property which are operated in compliance with the applicable federal laws and regulations for such child care programs;

(5) day care centers, family day care homes and other child care programs located on tribal property which are operated in compliance with the applicable tribal laws and regulations for

such child care programs; and,

(6) school-age programs caring for not more than six children.

## 8. *ELIGIBLE CHILD CARE PROVIDER*

To be an eligible child care provider, the provider must be included in the following list:

(1) For eligibility under the NYSCCBG:

a) a validly licensed or properly registered child day care center or properly registered school-age child care program operated by a voluntary non-profit corporation or association or an authorized child care agency; or

b) a validly licensed or properly registered child day care center or properly registered school-age child care program operated by either a private, proprietary corporation or organization or by an individual; or

c) a public school district operating a child care program which meets State and federal requirements; or

d) a family day care home properly registered with the Office to provide child care services to children; or

e) a group family day care home issued a valid license by the Office to provide child care services to children; or

f) a caregiver of informal child care who is enrolled with the district; or

g) a caregiver of legally-exempt group child care that is enrolled with the district.

(2) For eligibility under Title XX of the Social Security Act:

a) a validly licensed or properly registered child day care center or properly registered school-age child care program operated by a voluntary non-profit corporation or association or an authorized child care agency; or

b) a validly licensed or properly registered child day care center or properly registered school-age child care program operated by a private proprietary corporation or organization or by an individual; provided, however, that such a provider will be an eligible provider only with the prior approval of the commissioner of the Office upon the demonstration by the district that conveniently accessible non-profit facilities are unavailable or unable to provide the required care; or

c) a public school district operating a child care program which meets State and federal requirements; or

d) a family day care home properly registered with the Office to provide child care services to children; or

e) a group family day care home issued a valid license by the Office to provide child care services to children.

## 9. *CHILD CARE SERVICES UNIT*

The Child Care Services Unit (CCSU) replaces the Services Family Unit (SFU) in determining eligibility for child care. CCSU refers to the adults and/or children residing in the same household who will be considered for the purposes of determining a family's eligibility and the family share for child care services. Adult means any person 18 years of age or older unless the individual meets the definition of a child with special needs. The district may elect to include 18, 19, or 20 year old individuals in the same CCSU as their parent by indicating such option in its CSP/ICP. Districts have the option to include all 18, 19, or 20 year olds in the CCSU or to include only those 18, 19 or 20 year olds whose inclusion in the CCSU would benefit the family. The district's approved CSP/ICP must specify the criteria it will use to determine whether or not an 18, 19, or 20 year old is included in the CCSU.

(1) For families where the child's parent or caretaker relative is receiving TA, the CCSU will be comprised of the parent or caretaker relative, his or her children and any other member of the TA unit.

(2) For families that are receiving "child care in lieu of TA," the CCSU will be comprised of those household members that would be included in the TA filing unit, if the family were in receipt of TA, and those legally responsible non-filing unit members in the household whose income or resources would be considered in determining eligibility for TA.

(3) For families where no adult family member is in receipt of TA, the CCSU will be comprised as follows:

   (a) When adults, other than spouses, reside together and do not have a child in common, each adult along with his or her child will be considered a separate CCSU.

   (b) When adults, other than spouses, reside together and have at least one child in common, the CCSU will be comprised of the adults who have child(ren) in common, the child(ren) those adults have in common and the other child(ren) of each such adult.

When a custodial parent who is under the age of 21 years is residing with his or her parent(s), or has established his or her own household, or resides with an individual other than his or her parent(s), the CCSU is comprised of the custodial parent who is under 21 years of age, his or her child(ren) and any other individual in the household with legal responsibility for the custodial parent's child(ren).

When eligible children reside only with individuals who are not the children's parent, step-parent, adoptive parent or legal guardian with financial responsibility for the children, the CCSU will be comprised of the eligible child only. For example, a child placed in foster care and residing with a foster family is considered a family of one. As another example, a child residing with a relative who does not have legal guardianship, but may or may not have legal custody, is considered a family of one. The awarding of legal custody to a non-parental caretaker *does not* remove financial responsibility for the child from the parent and assign it to the custodial party. For example, when a child is removed from his or her parent and placed in the custody of the district commissioner, the parent still remains financially responsible for the child.

Individuals who would otherwise be included in the CCSU, but who are temporarily absent from a household, who meet the following criteria will be considered part of the CCSU:

(1) Individuals whose needs are partially or fully being met by members of the household, such as children or minors attending school away from home; provided, however, that a child away from home due to a foster care placement will not be considered part of the CCSU; and

(2) Individuals who are contributing or are required to contribute to the needs of the household, such as individuals who are serving in the military.

## *10. FAMILY SHARE*

Family share means the weekly amount paid by the child's parent/caretaker toward the costs of the child care services.

## *11. ENGAGED IN WORK*

For an individual who is not receiving TA, "engaged in work" means:

(1) Is earning wages at a level equal to or greater than the minimum amount required under federal and NYS Labor Law for the type of employment; or

(2) Is self-employed and is able to demonstrate that such self-employment produces personal income equal to or greater than the minimum wage or has the potential for growth in earnings to produce such an income within a reasonable period of time.

For an individual receiving TA, "engaged in work" means the individual is engaged in work as defined by the district in the district's approved employment plan.

## *12. SEEKING EMPLOYMENT*

For an individual who is not receiving TA, "seeking employment" means making in-person job applications, going on job interviews, registering with a NYS Department of Labor Division of Employment Services Office to obtain job listings, and participating in such other job seeking activities as are approved by the district.

## *13. CHILD WITH SPECIAL NEEDS*

Child with special needs means a child who is incapable of caring for himself or herself and who has been diagnosed as having one or more of the following conditions derived from the NYS Education Law, Title 8 NYCRR 200.1(zz), to such a degree that it adversely affects the child's ability to function normally:

| | | |
|---|---|---|
| Autism | Health impairment | Orthopedic impairment |
| Deafness | Learning disability | Speech or language impairment |
| Deaf-blindness | Mental retardation | Traumatic brain injury |
| Emotional disturbance | Multiple disabilities | Visual impairment including blindness |
| Other health impairment | | |

### 14. PERSON IN LOCO PARENTIS TO A CHILD

Person in loco parentis to a child means the child's guardian, caretaker relative or any other person with whom a child lives who has assumed responsibility for the day-to-day care of the child.

### 15. CHILD CARE CERTIFICATE

Child care certificate means a certificate issued to a child's parent/caretaker that verifies the parent/caretaker is eligible for subsidized child care services. The parent/caretaker uses the certificate to assist in arranging for care from a child care provider.

### 16. STATE INCOME STANDARD (SIS)

State Income Standard (SIS) means the most recent official federal income poverty level (as defined by the federal Office of Management and Budget) as updated by the Office.

## B. ELIGIBILITY DETERMINATION AND REDETERMINATION

### 1. APPLICATION FOR CHILD CARE

Applicants for child care services must apply in writing on the Common Application LDSS-2921, or local equivalent approved by the Office. The district must permit applicants to submit their applications by mail. The parent/caretaker with whom an eligible child resides is the applicant for child care services. The applicant is responsible for providing accurate, complete and current information regarding the family's circumstances including the family's income, composition and child care arrangements. The applicant must notify the district immediately of any change in this information.

Recipients of TA and "child care in lieu of TA" *must not be required* to complete a new application for transitional child care assistance, although districts may contact the family to update the case information. The district must determine whether a family is eligible for transitional child care *prior* to closing a TA case or a "child care in lieu of TA" case. Districts may use the family's existing TA application with updated information to determine eligibility and benefits for transitional child care. A separate Administrative Directive, 04 OCFS ADM-01, has been issued to detail requirements for "child care in lieu of TA."

Except where required by federal law or regulation, no person who applies for a social service must be required to disclose the Social Security Number of any person for whom the service is requested as a condition of eligibility for the service. For child care assistance, the provision of a Social Security Number is voluntary and child care benefits must not be denied or withheld for the failure to furnish a Social Security Number. No federal statute requires families who are receiving child care assistance through Title XX or NYSCCBG to disclose Social Security Numbers for the receipt of child care assistance.

However, this does not restrict the ability of a district to request that the applicant disclose the Social Security Number of the person who will receive the service. If such a request is made, the applicant must be informed that the disclosure is voluntary, by what statutory or other authority such number is

solicited and the uses which will be made of the Social Security Number.

Additionally, when a district obtains a Social Security Number voluntarily disclosed by an applicant for child care benefits, the district must provide the collected Social Security Number as requested by the Office to meet federal reporting requirements.

For additional information on application requirements, refer to *section III.E.1, Application* of this ADM.

## 2. DETERMINATION OF ELIGIBILITY

The district is solely responsible for the determination of eligibility for child care benefits. An initial determination of programmatic and/or financial eligibility must be completed for all applications or reapplications for child care services within 30 days of the date of application. Initial eligibility for child day care, informal child care and legally–exempt group child care services must be determined pursuant to the requirements of Title 18 NYCRR Parts 404 and 415; the district's options designated in an approved CSP/ICP; and, where applicable, 12 NYCRR Part 1300. Additionally, the required documentation is a necessary prerequisite to the determination of eligibility and must be retained in the case folder.

In determining whether a family is eligible for child care, the following conditions must be established:

(1) Programmatic Eligibility

There is a programmatic need for child care and child care services are a necessary part of a plan of self-support, self-sufficiency, or protection for the child developed by the district.

The child care is not otherwise available from a legally responsible relative. If there is a legally responsible relative outside of the household, the availability of that person to provide child care must be assessed, taking into account any court ordered or court sanctioned custody agreements. In two-parent households, both parents must meet the eligibility criteria.

In the case where a non-custodial parent exists, districts must make an assessment of the availability of the non-custodial parent when determining whether child care is needed. If the non-custodial parent resides in close proximity to the custodial parent and the non-custodial parent's work or activity schedule indicates availability, and there are no other circumstances that would make care by the non-custodial parent inappropriate, the non-custodial parent is considered to be available to provide child supervision during periods when the custodial parent is engaged in an approved activity. Availability of the non-custodial parent may be limited by any number of factors including but not limited to custody orders, visitation agreements, incarceration, disability or domestic violence situations.

The district can require the non-custodial parent to provide child supervision provided that it does not violate the provisions of any child custody order or other court order or infringe on the non-custodial parent's ability to work or participate in an activity that would be approved by the district. The district cannot request that the non-custodial parent offer child supervision on the custodial parent's days of custody, as specified by a court order. For example, Mary and Bill are divorced and share custody of their child. Bill has custody on Saturday, Sunday and Monday and Mary has custody the rest of the week. Bill lives across the street from their child's school and does not work the same hours as Mary. He is willing to supervise the child after school but Mary insisted that their

child not be with Bill on her days of custody, even though she was working during the hours that their child could be with Bill. The district cannot insist that Bill provide care and deny child care assistance on the days that he does not have custody but is available to provide care. As another example, John is a divorced father who lives two blocks from his ex-wife, Sara. John has joint custody of his daughter and is not prohibited by any provision in the custody order from providing child care. He works the night-shift at a local factory and Sara is a school teacher. The district cannot require John to provide child care during the day when Sara is teaching because John must have adequate time to sleep before his shift begins at the factory.

A district cannot require a non-custodial parent to provide child supervision if he/she has no visitation privileges, or if other circumstances exist indicating it would not be in the best interests of the child or the custodial parent.

In child protective cases, there must be a determination that child care is needed to address a child protective need.

(2) Family Eligibility

The family must be included in one or more of the categories of eligible families for the funding source.

- For NYSCCBG, eligible families include: families that are guaranteed child care, families that are eligible when funds are available, and families that are eligible if funds are available and if the district has listed such families as eligible in the district's CSP/ICP.
- For Title XX, eligible families include: families that are receiving child care services as part of a preventive or protective services case or identified as an eligible family in the district's approved CSP/ICP. For more information, refer to *section III.C.2.a, Categories of Eligible Families Under Title XX* of this ADM.

(3) Child Eligibility

The child meets the definition of an eligible child.

(4) Financial Eligibility

The family (Child Care Services Unit) is financially eligible to receive child care subsidy.

For NYSCCBG funds, the family income must be at or below 200% of the State Income Standard.

For Title XX funds, the family income must be at or below the upper income levels established by the district within its CSP/ICP.

For child protective cases, eligibility for child care is established without regard to financial circumstances only when it is determined that such child care is needed to protect the child.

(5) Child Support

In all households in which a parent is continuously absent, the custodial parent/caretaker seeking a child care subsidy must demonstrate that: he or she is actively pursuing child support, or he or she has good cause not to pursue child support. Refer to *section III.G, Child Support Requirements* of this ADM for more information.

## 3. DOCUMENTATION OF DECISION

No determination of eligibility may be made based solely on the application. Documentation, meaning collection, verification and recording of the criteria and conditions necessary for eligibility, is part of the determination process. The district must maintain a record that contains information that supports all aspects of the eligibility determination for each applicant or recipient, including, but not limited to programmatic, financial, family composition, and family and child eligibility. Family size need not be documented beyond the information provided on the application unless there is reason to believe the information provided is incorrect.

Additional factors that determine eligibility must be cited in the case record with supporting documentation. These include but are not limited to:

(1) The hours the child care is needed, including the work or education/training schedule of the parent/caretaker, if applicable;

(2) The reason child care is needed;

(3) The goal to be achieved by provision of child care assistance;

(4) Evaluation at subsequent redetermination periods of whether the goal is being achieved;

(5) The non-custodial parent's or other legally responsible relative's availability to provide care;

(6) Ages of children needing care and documentation of any special needs to support the determination that a child has special needs;

(7) Active pursuit of child support or good cause exception;

(8) For a licensed or registered provider, the provider's name;

(9) For an informal or legally-exempt group provider, enrollment forms which have been approved by the district and are completed annually or as required;

(10) Where applicable, for families who are eligible when funds are available, how the availability of funding has impacted the eligibility decision; and,

(11) If the application is filed by the applicant's authorized representative or someone acting responsibly for him or her, the relationship of the authorized representative or responsible person to the applicant and the reasons for such representative filing must be recorded.

## 4. INCOME

Individuals, other than those receiving TA, must be financially eligible for services on the basis of income eligibility status. Individuals are eligible for NYSCCBG if the monthly gross income of the family is equal to or less than to 200 percent of the State Income Standard or, for services funded under Title XX, the appropriate income eligibility level contained in the district's effective CSP/ICP.

The determination of family monthly gross income must be based on the average monthly income for a period of not less than one month nor in excess of three months prior to application, adjusted for any changes in income known or expected to occur during the period of authorization.

If income fluctuates significantly, the average monthly amount must be computed based on income received during a period of not less than three nor more than six months. Refer to other information on the treatment of lump sum payments and or other payments received for child support arrears in *section III.G.6.j, Fluctuating Child Support Income and Lump Sum Child Support Payments* of this ADM.

Computation of monthly gross income must be based on a factor of 4 1/3 of the weekly income.

### *a) Monthly Gross Income*

Monthly gross income means the monthly sum of income received from the following sources:

- Monthly wages or salary, i.e., total money earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues and similar purposes;
- Net income for non-farm self-employment, i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes) and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income;
- Net income from farm self-employment, i.e., gross receipts minus operating expenses from the operation of a farm by a person on his or her own account, as owner, renter or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, the incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farm hands, depreciation charges, cash rent, interest on farm building repairs, farm taxes (not State and federal income taxes) and similar expenses. The value of fuel, food or other farm products used for family living is not included as part of net income;
- Social Security benefits including Social Security pensions and survivor benefits, and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance, and railroad retirement checks from the U.S. government;
- Dividends; interest income from estates or trusts; net rental income or royalties, including dividends from stockholdings or membership in associations, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental of a house, store or other property to others, receipts from boarders or lodgers, and net royalties;
- Temporary assistance or welfare payments include Safety Net, Veterans Assistance, and Family Assistance payments;
- Pensions and annuities include pensions or retirement benefits paid to a retired person or his or her survivors by a former employer or by a union, either directly or through an insurance company, and periodic receipts from annuities or insurance;
- Unemployment compensation means compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits

received from union funds;

- Workers' compensation means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the individual;
- Alimony;
- Child support; and
- Veterans' pensions means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-servicemen as GI insurance premiums.

### *b) Exclusions from Monthly Gross Income*

Excluded from computation of monthly gross income are the following:

- per capita payments to, or funds held in trust for, any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;
- money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be counted as income from self-employment);
- withdrawals of bank deposits;
- money borrowed;
- tax refunds;
- gifts;
- lump sum inheritances or insurance payments;
- capital gains;
- the value of coupon allotments under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;
- the value of USDA donated foods;
- the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act;
- any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- earnings of a child under 14 years of age (no inquiry must be made);
- loans and grants such as scholarships obtained and used under conditions that preclude their use for current living costs;
- any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act;

- home produce utilized for household consumption;
- payments made for child care services or the value of child care services provided to a recipient of TA or the NYSCCBG subsidy program who is applying for or receiving any other services funded under any federal or federally assisted program that bases eligibility for such services upon need or the amount of benefits upon need; and,
- Veterans Administration (VA) payments provided under Public Law 104-204 to Vietnam veterans' natural adult or minor children for any disability resulting from spina bifida suffered by such children and VA payments to covered birth defects to or on behalf of the adult or minor biological children of female Vietnam veterans.

## 5. DATE OF ELIGIBILITY

Eligibility for all child care services, except for transitional child care, begins on the date that an application is submitted. Potential eligibility for the transitional child care guarantee begins on the date that the TA case or the "child care in lieu of TA" case closes and continues for a period of 12 consecutive months following the month of closing. A parent or caretaker relative may apply for transitional child care benefits at any point during the 12-month eligibility period.

## 6. REDETERMINATION OF ELIGIBILITY

Continuing eligibility must be redetermined as often as factors indicate, but no less than every 12 months, provided, however, that a district may not require the submission of a new application merely because the applicant is no longer eligible for TA. Refer to 04 OCFS ADM-01 for information on the requirements for families transitioning from TA.

Periodic redeterminations must not occur earlier than 30 days prior to the end of the previous eligibility period. When a new person is added to the case or there is another indicator of a change in a recipient's circumstances, which may render him/her ineligible or which may change the degree of need for services, redeterminations of both financial and/or programmatic eligibility must be made within 30 days of the change.

The district must establish procedures to enable families to keep their child care services without interruption as long as the families remain eligible for such services including procedures to transfer families from one unit of the district to another. This requirement does not apply to a family that has moved out of the district that was issuing the TA or the guaranteed child care assistance.

All factors concerning need and eligibility for child care services must be reconsidered, re-evaluated and verified during redeterminations. Current documentation of family size, categorical relationship, income, and continuing need for services must be obtained as appropriate. The periodic redeterminations conducted by the district do not eliminate the responsibility of the recipient of child care services to report to the district any change in financial circumstances, living arrangements, child care arrangements, employment, household composition, or other circumstances that affect the family's need or eligibility for child care services.

If a family is using a legally-exempt child care provider, the provider enrollment form must be updated or replaced with a newly completed enrollment form at least every 12 months.

## C. ELIGIBLE FAMILIES

For two-parent or two-caretaker families, *each* parent/caretaker must meet the eligibility criteria.

For parents living separately and sharing joint custody of a child, both parents may be eligible for child care services. Each parent must engage separately in the normal eligibility determination process to establish his/her subsidy level. The district must include the child's custody schedule within the case record for verification purposes.

### 1. *CATEGORIES OF ELIGIBLE FAMILIES UNDER THE NEW YORK STATE CHILD CARE BLOCK GRANT*

The NYSCCBG provides funding for child care subsidies to recipients of TA, low-income families transitioning off TA, families that are eligible for TA who have opted to receive "child care in lieu of TA" after applying for TA, and non-TA low income families.

Some families are *guaranteed* child care assistance, regardless of whether the district has any State or federal funds available under the NYSCCBG to pay for any or all of such costs, if they meet specific eligibility requirements described in this section. A second group of families may be considered to be eligible *only* when there are funds available within the district and they meet programmatic and financial criteria. A third group of families is considered to be eligible when the district has funds available to serve them, *and* the district has included them as eligible families in its CSP/ICP *and* they meet the programmatic and financial criteria.

The three categories of families listed below are eligible for child care services under the NYSCCBG provided that child care is not otherwise available from a legally responsible relative or caretaker of the child in need of services, and the care is a necessary part of a plan of self support or protection for the child developed by the district.

#### *a) FAMILIES THAT ARE GUARANTEED CHILD CARE*

A district must guarantee child care services (regardless of whether the district has any State or federal funds available under the NYSCCBG to pay for such costs) to the following families. The guarantee applies to all of the eligible children under 13 years of age of the parent or caretaker relative regardless of the child's status as part of the TA filing unit.

(1) Families that have applied for or are in receipt of TA when child care is needed for a child under 13 years of age in order to enable the child's parent or caretaker relative to participate in activities required by the district including orientation, assessment or work activities as defined in 12 NYCRR Part 1300.

(2) Families that are receiving TA when child care is needed for a child under 13 years of age in order to enable the child's parent or caretaker relative to engage in work as defined by the district;

(3) Families which have applied for and would otherwise be eligible for TA benefits and choose to receive "child care in lieu of TA", or were receiving TA and voluntarily closed their TA case while still eligible for TA **and** when child care is needed for a child under 13 years of age in order to enable the child's parent or caretaker relative to work for at least the following number of hours.

(a) For a single parent:

- with a child under the age of six years: 20 hours per week; or
- with children who are all six years or older: 30 hours per week.

(b) For two-parent families:

- the parents must be working a combined total of 55 hours per week with at least one parent working 30 or more hours per week.

This guarantee continues as long as the family meets these requirements.

(4) Families transitioning from TA whose TA cases have been closed or who voluntary close their TA cases; and who are no longer financially eligible for TA due to an increase in income or child support. The family must have received TA in three of the six months prior to case closing, or, for a family that chose "child care in lieu of TA", was eligible for assistance in at least three of the six months immediately preceding their ineligibility for TA. The family must include an eligible child under the age of 13 who needs child care in order for the parent(s) to be engaged in work, and the family's gross income must be at or below 200% of the State Income Standard. For transitional child care, the eligibility period begins with the first month in which a family becomes ineligible for TA or "child care in lieu of TA", and is limited to 12 months in duration.

### *b) Families That are Eligible When Funds are Available*

Families in this category may receive subsidized child care to the extent that the district continues to have funds available under either its allocation from the NYSCCBG or any local funds appropriated for this program, subject to any service priorities and set-asides established by the district. Districts may establish priorities, in addition to the federal priorities of very low income families and special needs children, by identification of such categories in the CSP/ICP, subject to approval from the Office. Funds may be set aside for such priority families when described in the CSP/ICP and approved by the Office.

A district must provide child care assistance to the following families when funds are available:

(1) Families that have applied for or are receiving TA, when child care is needed for an eligible child 13 years of age or older who has special needs or is under court supervision, to enable the child's parent or caretaker relative to engage in work or participate in activities required by the district including orientation, assessment or work activities defined in 12 NYCRR Part 1300.

(2) Families that are receiving TA, when child care is needed for an eligible child 13 years of age or older who has special needs or is under court supervision, to enable the child's parent or caretaker relative to engage in work as defined by the district.

(3) Families that are receiving TA when child care is needed to enable a teenage parent to attend high school or an equivalency program; or for the child to be protected because the child's parent or caretaker relative is unable to care for their children due to a physical or mental incapacity or has family duties away from home necessitating his or her absence.

(4) Families with income at or below 200% of the State Income Standard when the family is at risk of becoming dependent on TA and child care services are needed to permit the child's parent/caretaker to be engaged in work; or to enable a teenage parent to attend high school or

an equivalency program.

### *c) Families That are Eligible When Funds are Available and the Category of Family is Identified in the District's CSP/ICP*

Families in this category may receive subsidized child care to the extent that the district continues to have funds available under either its allocation from the NYSCCBG or any local funds appropriated for this program, **and** the category of family is designated as an eligible family by the district in its CSP/ICP. Availability of funds is subject to the service priorities and set-asides established by each district in its CSP/ICP and approved by the Office.

The district may select categories from the following list or the district may opt to refine any of the optional categories, by specifying any limitations to the programmatic eligibility criteria, so that a more specific population is selected. The identified families must be listed as eligible in the district's CSP/ICP and approved by the Office.

(1) Families receiving TA when child care services are necessary for the parent or caretaker relative to participate in an approved activity in addition to being engaged in work as required by the district or in a required work activity (e.g.: A parent or caretaker relative with a minimum wage position requesting additional child care during the hours he or she is not at work to enable him or her to seek a better job).

(2) Families receiving TA when child care services are necessary for a sanctioned parent or caretaker relative to participate in unsubsidized employment when the parent or caretaker relative receives earned wages greater than or equal to the minimum amount required under federal and State labor law.

(3) Families receiving TA or families with incomes up to 200% of the State Income Standard when child care services are needed for the child to be protected because the parent/caretaker is:

(a) participating in an approved substance abuse treatment program, screening or assessment (If the applicant is classified as exempt from work activities because of his or her substance abuse, child care can be offered under this category. However, if the district *requires* that the applicant receive substance abuse treatment <u>and</u> he or she is working or participating in a required work activity, child care is *guaranteed.*);

(b) homeless, or receiving services for victims of domestic violence, and is in need of child care to participate in an approved activity, screening or assessment for domestic violence; or,

(c) in an emergency situation of short duration including, but not limited to, cases where the parent/caretaker must be away from the home for a substantial period of the day due to extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters or providing chore/housekeeping services for an elderly or disabled relative.

(4) Families receiving TA or with incomes up to 200% of the State Income Standard when child care services are needed for the child's parent/caretaker to attend a two year program other than one with a specific vocational sequence leading to an associates degree or a certificate of completion, or at a four year college or university program leading to a bachelor's degree

provided:

(a) that it is reasonably expected to improve the earning capacity of the parent/caretaker;

(b) the parent/caretaker is participating in and continues to participate in non-subsidized employment whereby the parent/caretaker works at least 17 1/2 hours per week and earns wages at a level equal or greater than the minimum amount required under federal and State labor law while pursuing the course of study; and

(c) the parent/caretaker is and remains engaged in work while pursuing the course of study and can demonstrate his or her ability to successfully complete the course of study.

(5) Families with an open child protective case, irrespective of income, only when it is determined that such child care is needed to protect the child.

(6) Families with income up to 200% of the State Income Standard when child care services are needed for the child to be protected because the parent/caretaker is physically or mentally incapacitated or has family duties away from the home.

(7) Families with incomes up to 200% of the State Income Standard when child care services are needed for the child's parent/caretaker to participate in one of the following approved activities provided the activity is identified in the district's CSP/ICP as an allowable activity, the district determines it is a necessary part of a plan for the family's self support, and provided that the parent/caretaker can demonstrate that he or she is participating in the approved activity:

(a) Actively seeking employment for a period no greater than six months, and if the parent/caretaker is registered with the NYS Department of Labor, Division of Employment; or

(b) Educational or vocational activities, including attendance in one of the following secondary or post-secondary programs:

(i) A public or private educational facility providing standard high school curriculum offered by, or approved by, the local school district;

(ii) An education program that prepares the parent/caretaker to obtain a NYS high school equivalency diploma;

(iii) A program providing basic remedial education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the ninth month of the eighth grade level in those areas;

(iv) A program providing literacy training designed to help individuals improve their ability to read and write;

(v) An English as second language instructional program designed to develop skills in listening, speaking, reading and writing the English language for individuals whose native or primary language is other than English;

(vi) A two year full-time degree granting program at a community college, a two year college, or an undergraduate college with a specific vocational goal leading to an associate degree or certificate of completion within a determined time frame which must not exceed 30 consecutive months;

(vii) A training program which has a specific occupational goal and is conducted by an institution licensed or approved by the State Education Department other than a college or university;

(viii) A pre-vocational skills training program such as a basic education and literacy training program; or

(ix) A demonstration project designed for vocational training or other project approved by the Department of Labor.

Notwithstanding the potential for some of these educational or vocational training programs to allow for the eventual attainment of a bachelor's degree or like certificate of completion for a four–year college program, Office regulations do not permit the renewal of such educational or vocational training program enrollment for any additional period is excess of 30 consecutive calendar months, except for families as authorized under paragraph (4) in this section *(to attend a two year program other than one with a specific vocational sequence leading to an associates degree or a certificate of completion, or at a four year college or university program leading to a bachelor's degree)*, nor does it permit enrollment in more that one such program.

## 2. TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT

### a) CATEGORIES OF ELIGIBLE FAMILIES UNDER TITLE XX

To the degree that the district has chosen to make Title XX funds available for low income child care services, a family is eligible for child care services funded under Title XX if the family meets any of the programmatic eligibility criteria for the NYSCCBG, or if the child is in need of child care as a preventive service, subject to any applicable priorities and set asides established in the district's most recently approved CSP/ICP. To exercise this option, the district must identify the programmatically eligible families it chooses to include as eligible families in the district's CSP/ICP and receive approval from the Office. The district may opt to refine any of the optional categories so that a more specific population is selected by specifying any limitations to the programmatic eligibility criteria in its CSP/ICP.

### b) UPPER INCOME LEVELS FOR TITLE XX

For Title XX funds, a district is permitted to establish within its CSP/ICP upper income levels that exceed 200% of the State Income Standard (SIS) for families receiving child care services, up to the maximum income levels shown below.

| FAMILY SIZE | MAXIMUM INCOME LEVEL ALLOWED |
|---|---|
| 1 to 2 | 275% SIS |
| 3 | 255% SIS |
| 4 or more | 225% SIS |

## 3. CHILD CARE SERVICES DURING BREAKS IN PARENT/CARETAKER RELATIVE'S ACTIVITIES

### a) FAMILIES RECEIVING TA

Districts must provide NYSCCBG services to families receiving TA during breaks in activities, for a period up to two weeks. Such child care services may be authorized for up to one month when child care arrangements would otherwise be lost and the program or employment is expected to begin within that one month period, and when the parent or caretaker relative is:

- engaged in work;
- participating in work activities;
- performing community service per SSL Article 5, Title 9-B;
- a teen parent attending high school or equivalent training; or,
- physically or mentally incapacitated, or absent from home due to family duties.

For example, the employer of parent or caretaker relative who is on TA and receiving child care in order to attend work, closed his business for a one week period. The provider requires payment whether or not the child attends the program during that week. The district must provide a child care subsidy.

### b) LOW INCOME FAMILIES

For all other families who are eligible under the NYSCCBG or Title XX, including families who are receiving transitional child care or "child care in lieu of TA", a district may provide child care services while the parent/caretaker is waiting to enter an approved activity/employment, or on a break between activities for a period up to two weeks or for a period up to one month, where child care arrangements would otherwise be lost and the subsequent activity is expected to begin within that period. If the district elects to provide this service to low income families, it must be indicated in its CSP/ICP and approved by the Office. For example, a teenage parent is attending high school and has one week off for school vacation. The parent will lose the child care arrangements if subsidy is not provided. If the district has chosen to provide this service to this low income category of family in its CSP/ICP that has been approved by the Office and there are funds available, subsidy for child care during the school vacation must be paid.

## 4. PRIORITY POPULATIONS, FUNDING SET ASIDES, WAITING LISTS, AND CASE CLOSINGS

### a) PRIORITY POPULATIONS

Federal regulations require that two specific populations of families be prioritized for child care services funded under the NYSCCBG program: *families with very low income* and *families with children who have special needs*. Districts define "families with very low income" by establishing the upper income level for these families in their CSP/ICP. This income level must be set at or below 200% of the State Income Standard (SIS).

In addition to the federally mandated priority populations, each district has the option of establishing *local priorities* for child care services funded under the NYSCCBG and/or under Title XX of the federal Social Security Act. The district may identify categories of families as local priority populations, in order to "set-aside" funds for that population's estimated 12-month needs. The district must provide eligible families within a priority group equitable access to child care assistance funds, to the extent that these funds are available. Local priorities must be identified in the district's CSP/ICP and approved by the Office prior to being implemented. Local priorities may refine but cannot replace the federally mandated priorities. Local priorities may be based on one or a combination of factors, including, but not limited to, household composition, reason for child care, and income level. Local priorities may not have the effect of limiting a parent/caretaker's choice of any eligible child care provider or be based on a parent/caretaker's choice of a child care certificate. Families with a child care guarantee must be provided child care services even if a district has insufficient funds. However, there may be times of the year when a district has insufficient funds to cover other families that do not have a child care guarantee.

Identification of a category of family as a "priority" and the definition of "very low income" *does not* change the income eligibility standards for the NYSCCBG, which are set in the Social Services Law at 200% of the State Income Standard (SIS). However, priorities and the district's definition of "very low income" assist in determining how intake may be limited or cases closed when a district has insufficient funds to provide child care to all families who meet the State income and programmatic eligibility criteria but do not fall under a guarantee of child care.

A district may decide, for example, that it only has sufficient funds to cover families with incomes below 160% of the SIS. In this case, a family with income of 175% is financially eligible for child care but is ineligible to receive a subsidy *at the current time* due to insufficient funds. If a district is limiting intake to a particular income level when there are insufficient funds, the district must be prepared to support its decision by documenting spending levels.

When circumstances require that a district must limit the number of cases that will be opened, the provision of assistance to families identified as priorities will dictate which cases are opened first and which cases may be denied due to insufficient funds and/or put on a waiting list. When circumstances dictate that some cases be closed due to insufficient funding, families who do not meet the definition of a priority population will be closed first.

### *b) Funding Set Asides*

Each district may set aside a portion of the district's NYSCCBG allocation and/or its Title XX allocation to serve one or more of the federal and/or local priority populations. Families eligible for child care guarantees may have set asides. The method of disbursement of funds to priority groups must be such that eligible families within a priority group will receive equitable access to child care assistance funds to the extent that such funds are available.

Each funding set aside amount must be based on the projected need for the population for a 12-month period. The amount of the set aside, and the rationale, must be described in the district's CSP/ICP. The amount of the set aside, for each particular priority population for a given 12-month period, may be adjusted up or down by 10 percent without the prior written approval of the Office. Such adjustment to a set aside amount must be reported to the Office within 30 days of the adjustment. Any adjustment of the set aside amount for a priority population that exceeds 10% of the amount originally set in the CSP/ICP requires the prior approval of the Office.

### *c) Waiting Lists and Denial of Services*

If a district has set aside funds to service one or more priority populations and all of the available funds that *are not set aside* are projected to be needed for open cases, the district may deny services to a family that is not eligible for a child care guarantee and that does not fall within the priority population for the set asides, or the district may place the family on a waiting list for subsidies.

A district that has not established set asides must open a new case for an eligible family if the district has sufficient funding available to provide child care services to that family at the time the family is determined to be eligible. If the district does not have sufficient funding available because all of the available funds are projected to be needed for open child care cases, the district may deny services to a family that is not eligible for a child care guarantee, or place the family on a waiting list for subsidies.

### *d) Case Closings*

Once a district has committed all available funds, either through set asides, as approved in its CSP/ICP, and/or projections based on open child care cases, the district may discontinue funding to families that have lower priorities and who are not eligible for a child care guarantee in order to serve those families with higher priorities. A district must rank in its CSP/ICP its identified priority families for the purposes of case closing and case openings for use in the event that funds are insufficient to serve all eligible families. If no priorities are established beyond the federally-mandated priorities and all funds are committed, case closing for families that are not eligible under a child care guarantee and are not a federally-mandated priority must be based on the length of time in receipt of services. The district must choose to close cases based either on the shortest or longest time receiving child care services, but the decision must be specified in its CSP/ICP and be applied consistently for all families.

## D. RESPONSIBILITIES OF PARENT/CARETAKER

### *1. APPLICATION FOR CHILD CARE*

Applicants for child care services must apply, in writing, on forms and in a manner prescribed by the district. The parent/caretaker with whom an eligible child resides is the applicant for such services. The applicant is responsible for providing accurate, complete and current information regarding family income and composition, child care arrangements, and any other circumstances related to the family's eligibility for child care services. Any change in this information must be reported immediately to the district. The parent/caretaker is informed of this requirement in the LDSS-2921 Application and the LDSS-4148A: "What You Should Know About Your Rights and Responsibilities."

### *2. ACTIVE PURSUIT OF CHILD SUPPORT*

The child's parent/caretaker must demonstrate that he or she is actively pursuing child support from the non-custodial parent through the district's Child Support Enforcement Unit (CSEU) or by private legal means or must show good cause for why the family should be excused from this requirement. For more information on determining good cause, refer to *section III.G.5, Good Cause* of this ADM.

### 3. CHOOSING A CHILD CARE PROVIDER

The child's parent/caretaker is responsible for locating a child care provider that meets the need of his or her child. A parent/caretaker that is unable to locate a child care provider may ask the district for assistance. The district must provide a copy of a list of licensed or registered providers to applicants when the list is requested. The district may also refer the parent/caretaker to the child care resource and referral agency for assistance in arranging child care. Refer to *section III.F, Special Provisions Relating to Temporary Assistance Recipients* of this ADM for a district's responsibility when a TA parent cannot find care.

Parents/caretakers are responsible for paying those providers that do not have a contract with the district any differential between the maximum allowable child care market rate and the actual cost of child care. Parents/caretakers who are unwilling or unable to increase their out-of-pocket expenses should be instructed to search for another provider whose costs are closer to the market rate.

A family that chooses to have a provider providing child care services in the child's own home must provide such provider with all employment benefits required by State and/or federal law, and must pay the provider at least the minimum wage, if required. Families may be referred to the NYS Department of Labor for information on specific requirements.

### 4. FAMILY SHARE

Each low income family receiving child care services must contribute toward the costs of the child care by paying a family share based on the income of the CCSU. The family is responsible for paying the family share in the manner determined by the district. The district may require the family to pay the family share to the district or to one or more child care providers used by the family. A family share may also be required of any family to recover an *overpayment* for child care services regardless of whether any member of the family is receiving TA.

The parent/caretaker has the right to request a fair hearing if he or she disagrees with an action taken or decision made by the district. If a fair hearing is requested, the parent/caretaker is not required to repay any overpayments until after the district prevails at the fair hearing.

The failure of a family receiving child care services to pay the family share established by the district, or to cooperate with the district to develop an arrangement satisfactory to the district to make full payment of all delinquent family shares constitutes an appropriate basis for suspending or terminating such child care services. However, the failure of a recipient to pay his or her family share is not to be used as a basis for the denial or discontinuance of services as part of a plan of protective services for an adult or a child or for preventing the placement of a child in foster care.

For more information on the family share, please refer to the *section III.E.5, Family Share* of this ADM.

### 5. CHILD CARE NEEDED FOR PARTICIPATION IN APPROVED TRAINING

A parent/caretaker seeking child care services in order to participate in an approved training program must provide documentation that includes, but is not limited to, the following:

- the name of the institution offering or conducting the training program;

- the course of study to be pursued or in which the person is participating;
- the specific vocational or rehabilitative goal;
- the duration of the training (hours per day) including no more than a total of three hour per day to commute (from home) to and from the training location; and
- progress reports (marks, transcripts, letters, and like documents) that indicate that the parent/caretaker is progressing satisfactorily towards attaining the established vocational or rehabilitative goal.

### 6. *IMMEDIATE NOTIFICATION WHEN A CHANGE OCCURS*

A recipient is responsible for notifying the district immediately of any change in financial circumstances, living arrangements, employment, household composition, child care provider or other circumstances that affect the family's need or eligibility for child care services. Such changes may have an immediate impact on issuance of subsidy payment, and may result in a child care overpayment if the recipient does not immediately notify the district.

## E. RESPONSIBILITIES OF THE SOCIAL SERVICES DISTRICT

### 1. *APPLICATION*

Each individual wishing to apply for social services must be allowed the opportunity to do so without delay. The district must allow the applicant to submit an application by mail.

Districts are required to inform applicants of their rights and responsibilities. This is accomplished through the following documents:

- LDSS-4148A: "What You Should Know About Your Rights and Responsibilities"
- LDSS-4148B: "What You Should Know About Social Services Programs"
- LDSS-4148C: "What You Should Know If You Have an Emergency"

### 2. *INITIAL ELIGIBILITY*

Initial eligibility for child day care, informal child care and legally-exempt group child care services must be determined pursuant to the requirements of 18 NYCRR Parts 404 and 415, the district's options designated in its approved CSP/ICP, and, where applicable, 12 NYCRR Part 1300. Additionally, the required documentation is a necessary prerequisite to the determination of eligibility and must be retained in the case folder.

All applications must be processed promptly. A determination of programmatic and/or financial eligibility must be completed for all applications within 30 days of the date of the application.

Except for the provision of child care services to families transitioning from TA eligible for the child care guarantee, reimbursement for services provided prior to the date of actual determination of programmatic and/or financial eligibility will be allowed only if:

- the eligibility determination was made within 30 days of the date of application, and
- the applicant was determined to have been programmatically and/or financially eligible when services were initiated.

The date of eligibility for services may not precede the date of application except in the case of transitional child care benefits.

Upon the approval of a child care services application, the district must provide an authorization for child care services and send written notice, OCFS/LDSS-4779, Approval of Your Application for Child Care Benefits, within 15 calendar days after the determination has been made to the applicant regarding:

- the eligibility determination,
- the amount of the family share, if required,
- the dates the family share is due to be paid by the applicant,
- the family share payment procedures, and
- the applicant's right to a fair hearing.

If the child care services application is denied, the district must send written notice, OCFS/LDSS-4780, Denial of Your Application for Child Care Benefits, within 15 calendar days after the determination has been made to inform the applicant of the reason for the determination of ineligibility and of the applicant's right to a fair hearing.

Notification must be made using the forms specified above unless the district has requested and been granted approval from the Office for use of local equivalents to replace any of these forms.

### *3. CONTINUING ELIGIBILITY*

Continuing eligibility for child care services must be redetermined no less frequently that every 12 months. In redetermining eligibility, all eligibility factors must be reevaluated.

If a recipient is found to be eligible at redetermination, the district must send to the recipient the required notice, OCFS/LDSS-4779, Approval of Your Application for Child Care Benefits, within 15 calendar days after the determination has been made.

Districts must send the required notice, OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits, at least ten days before the proposed action when a change involves an increase or decrease in the amount of benefits or there is a change in the manner of payment that forces the recipient to change child care arrangements.

For those changes that result in a suspension or termination of such benefits, a district must provide notice, using OCFS/LDSS-4782, Notice of Intent to Discontinue Benefits, at least ten days before the suspension or termination of benefits.

## 4. CHILD CARE SERVICE REQUIREMENTS

### a) PARENTAL CHOICE

A recipient must have the option to choose among eligible child care providers. A district may disapprove a child care provider chosen by the recipient in a child preventive case funded under Title XX or a child protective case if the district has reason to believe that it would be contrary to the health, safety or welfare of the child to receive child care services from that provider.

When offering NYSCCBG to a family eligible to receive such services, the district must offer the child's parent/caretaker the choice to either:

- enroll the child with an eligible child care provider which has a contract with the district for the provision of such services; or
- receive a child care certificate that permits the child's parent/caretaker to arrange child care services with any eligible provider.

A child care provider must be validly licensed, properly registered or enrolled, as appropriate. When the license or registration of a provider is suspended, the provider is not validly licensed or registered and cannot operate for the term of the suspension.

### b) CHILD CARE SERVICES MUST FIT THE HOURS OF THE APPROVED ACTIVITY

The child care services must be reasonably related to the hours of employment, education or training of a child's parent/caretaker, as applicable, and permit time for pick up and delivery for the child. Additionally, up to eight hours of child care services may be provided, if needed, to enable an employed parent/caretaker who works a second or third shift to sleep if the district indicates in its CSP/ICP that it will provide such services.

### c) MOVING OF A CHILD FROM AN ELIGIBLE PROVIDER

No child may be moved by a district from an eligible provider unless the recipient consents to such move; provided, however, that a district may require that a child receiving child care services as part of a preventive case funded under Title XX, or as a child protective services case, be moved from an existing placement with an eligible provider if the district has reason to believe that it may be contrary to the child's health, safety or welfare to continue receiving services from that provider.

### d) ASSIST IN ARRANGING CHILD CARE

A parent/caretaker that is unable to locate a child care provider may ask the district for assistance. The district must provide a list of licensed or registered child care providers located in the district or refer the parent/caretaker to the child care resource and referral agency for assistance in arranging child care. Refer to *section III.F, Special Provisions Relating to Temporary Assistance Recipients* of this ADM for a district's responsibility when a TA parent cannot find care.

Districts may use the Child Care Facilities System (CCFS) to obtain a list of providers and update such list against providers on the hold list provided to the district by the Bureau of Early Childhood Services Regional Office.

## 5. FAMILY SHARE

### a) INCOME-BASED PORTION OF THE FAMILY SHARE

Each family receiving child care services, other than those receiving child care services under TA, must contribute toward the costs of the child care by paying a family share based on the income of the CCSU. This *income-based* portion of the family share for child care services must be determined by the district in accordance with a sliding fee scale. Each district must select a percentage, from 10% to 35%, that it will use to calculate the family share for all families receiving child care services that are required to pay an income-based portion of a family share. The district must use the same percentage for all families. Once the percentage is recorded in the district's CSP/ICP and approved by the Office, it becomes the basis for the district's sliding fee scale.

The family share is calculated as follows:

- Determine the annual gross income for the eligible family.
- Subtract the State Income Standard (SIS) for the specific family size of the CCSU from the annual gross income of the CCSU to obtain the difference.
- Multiply the difference by the district's selected percentage, designated in the CSP/ICP, to get the annual family share.
- Divide the annual family share by 52 to get the weekly family share.

A minimum weekly family share of one dollar must be charged to each family receiving child care services that is required to pay an income-based portion of a family share. Each family receiving child care services is responsible for paying only one income-based family share regardless of the number of children in the family who are receiving child care services.

### b) OVERPAYMENT PORTION OF FAMILY SHARE

A family share may also be required of any family to recover an *overpayment* for child care services regardless of whether any member of the family is receiving TA. The child care overpayment portion of the family share, if any, must be reflected separately from any income-based portion of the family share. Refer to *section III.E.13, Child Care Overpayments* of this ADM for detailed information on the calculation and collection of overpayments.

### c) METHOD OF PAYMENT OF THE FAMILY SHARE

The family is responsible for paying the family share in the manner determined by the district. The district may require the family to pay the family share to the district or to one or more child care providers used by the family.

### d) RECALCULATION OF FAMILY SHARE

The family share will be recalculated by the district whenever there is a change in income, household circumstances or child care provider that would affect the amount of the family share, or when an overpayment for child care services has occurred and the recovery of such overpayment will be made through the family share, but no less frequently than each recertification.

### *e) Failure to Pay Family Share and Termination of Services*

The failure of a family receiving child care services to pay the family share established by the district, or to cooperate with the district to develop an arrangement satisfactory to the district to make full payment of all delinquent family shares, constitutes an appropriate basis for suspending or terminating such child care services. However, the failure of a recipient to pay his or her family share is not to be used as a basis for the denial or discontinuance of child care services as part of a plan of protective services for a child or adult or for preventing the placement of a child in foster care.

### *f) When Family Share Exceeds Cost of Care*

If the family share exceeds the cost of care, the family is ineligible for child care payments. However, there may be situations when the family share exceeds the cost of care during certain times of the year and the cost of care exceeds the family share at other times of the year. This happens with school age children who need only part-time child care while school is in session and full-time child care during school vacations and summer break. In this circumstance, when the family share exceeds the cost of care, the family pays the full cost of care. When the cost of care exceeds the family share, the family pays the family share and the district covers the balance.

### *g) Informing the Applicant*

At the time of initial eligibility determination, redetermination, and each recalculation of the family share, the district must inform the parent/caretaker, using the OCFS/LDSS-4779, Approval of Your Application for Child Care Benefits, or the OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits, of the amount of the required family share and when the family share is due to be paid. A provider that is being paid directly by the district must be notified if the provider is required to collect a family share from the recipient. The notification to the provider must include the amount of the family share to be collected and when it is due.

## *6. ENROLLMENT OF LEGALLY-EXEMPT PROVIDERS*

New health and safety standards require that a legally-exempt child care provider attest to his or her history, if any, in regards to the removal of a child from his or her care through an Article 10 court order; termination of his or her parental rights; and/or denial, revocation and/or suspension of a license or registration to operate a school-age child care program, day care center, family day care home or group family day care home. Districts should refer to 01 OCFS LCM-11, Revised Health and Safety Requirements for Legally-Exempt Providers, and 03 OCFS LCM-17, Legally-Exempt In-Home Child Care Providers as Employees, and 05 OCFS ADM-01, Administration of Medication by Legally-Exempt Child Care Providers, for all other health and safety requirements and enrollment procedures for legally-exempt providers.

### *a) New Legally-Exempt Provider Certifications*

To be enrolled by a district to provide child care services under the NYSCCBG, a provider of legally-exempt family child care, legally-exempt in-home child care or legally-exempt group child care which is not required to be operated under the auspices of another federal, State or local government agency must attest and certify in writing:

- Whether the provider has ever had a child(ren) removed from his or her care by court order under Article 10 of the Family Court Act;
- Whether the provider has ever had his or her parental rights terminated; and
- Whether, to the best of his or her knowledge, the provider has ever been denied a license or registration to operate a school-age child care program, day care center, family day care home or group family day care home, or had such a license or registration suspended or revoked.

The provider must provide true and accurate information to the district and the parent/caretaker about the reasons for the denial, suspension or revocation and the reasons underlying the loss of parental or custodial rights. Based on guidelines issued by the Office, a district must determine whether to enroll a provider who indicates that he or she has been subject to any of the conditions listed above. The guidelines for implementing this requirement are provided as Attachment A of this ADM.

#### *b) Revised Enrollment Forms*

The naming of the enrollment forms, LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care and the LDSS-4700, the Enrollment Form for Provider of Legally-Exempt Group Child Care has been changed to include an OCFS prefix. The content of these forms has been revised to include the new legally-exempt provider certifications. These forms, OCFS/LDSS-4699 and OCFS/LDSS-4700, are included as Attachments B and C, respectively. Districts must begin using these immediately for all new enrollments.

Districts must notify current recipients of child care assistance of the requirement for providers to complete the new certifications, and provide the certification sections of the revised enrollment forms, OCFS/LDSS-4699 and OCFS/LDSS-4700, to the child care recipients with instructions to have them completed by their provider and returned as a condition of eligibility, at the next case action, recertification or the end of the enrollment period, whichever comes first. At its option, the district may take the additional action of directly informing the enrolled child care providers of these regulatory changes that may affect their status as enrolled providers. Districts must promptly review the certification sections of the revised enrollment form and make an enrollment decision in accordance with the guidelines.

*Other additions and changes to the enrollment forms*

### *Administration of medication*

On January 31, 2005, new regulations regarding administration of medication went into effect. A new section has been added to the enrollment forms to address the administration of medication in legally-exempt care. The Office issued 05 OCFS ADM-01 dated January 12, 2005 that details guidelines concerning the administration of medication.

### *Access to where child care services are being provided*

In the final Provider Certification section on both enrollment forms, OCFS/LDSS-4699 and OCFS/LDSS-4700, a new certification was added to allow districts access to the child care site when subsidized care is being provided. Districts may use this clause to verify the appropriate delivery of services.

### *Other changes to the enrollment forms*

For both forms, language was added to the case identifying information section to clarify that a parent/caretaker may, but is **not required** to, provide his/her Social Security Number. The parent/caretaker may not be required to disclose the Social Security Number as a condition of eligibility. It explains that the Social Security Number will be used to assist in identifying the child care parent's/caretaker's file. It may also be used by federal, State and local agencies to prevent duplication of services and fraud, and for federal reporting.

In Section I of the OCFS/LDSS-4699, instruction was added to advise the parent and provider that they must submit the Agreement for Legally-Exempt In-Home Child Care when in-home care is provided. Also the response to 2B under Provider Status, was reworded, from *"I care for only 2 children…"* to say, *"I care for no more than 2 children…"*

### *c) Monitoring Determinations Prior to Authorizing Payment*

Prior to authorizing payment for child care services provided by a provider of legally-exempt family child care, legally-exempt in-home child care or legally-exempt group child care, the district must review information obtained from the provider and determine whether the provider is exempt from the State's child day care licensing and registration requirements and whether the provider meets the basic health and safety requirements. Enrollment information must be updated and reviewed at least annually and at any other time when a change in circumstances warrants such a review.

A district must describe in its CSP/ICP how it will examine and verify the accuracy of information contained in the enrollment forms completed by legally-exempt providers. The district's monitoring activities may involve other components in addition to the review and verification of enrollment paperwork, attendance sheets, work schedules, bills signed by both the child's caretaker and the provider, and other payment records. For example, a district may:

- Conduct random site visits during the hours care is being provided to verify information on the enrollment forms regarding health and safety and whether child care is actually being provided as billed. These random visits can only be conducted as part of an audit function or when the district has received approval to conduct such as part of its CSP/ICP.
- Conduct file reviews to determine whether providers are submitting enrollment documents at least annually and to determine if child care services are reasonably related to the hours of employment, training or education of the child's parent/caretaker.
- Conduct file reviews to determine whether those child care providers who are also receiving TA are accurately reporting their income for the purpose of computing their TA benefits.
- Define additional standards for legally-exempt providers in the district's CSP/ICP. Such standards may include a routine home visit to assess health and safety prior to enrollment; or a local criminal or local child welfare database check of the caregivers and/or persons residing in the home where the child care is provided.
- Make fraud referrals when the district has reason to believe that a provider or a parent/caretaker has made a fraudulent statement.

## 7. MONITORING OF ATTENDANCE AND PAYMENT RECORDS

Attendance and payment records must be monitored for all providers receiving payment for child care services regardless of the method of payment.

## 8. ADDITIONAL DISTRICT STANDARDS FOR PROVIDERS OF SUBSIDIZED CHILD CARE SERVICES

Districts may submit to the Office justification for a need to impose additional requirements on child care providers providing subsidized child care services that exceed the current State and federal regulations. The justification for additional standards must include a plan to monitor compliance with such additional requirements. Additional standards are established by including them in the district's CSP/ICP and obtaining approval by the Office. The Office is not obligated to take any action to enforce any additional requirements imposed by a district on child care providers providing care to children receiving a subsidy. The district must not impose such requirements or monitoring without the written approval of the Office.

If the local standard is included in its CSP/ICP and approved the Office, a district may choose to conduct announced or unannounced inspections of the records and the premises of providers of child care to subsidized children. An example of an additional standard a district may select includes conducting inspections *prior* to the actual provision of child care to subsidized children for the purpose of determining whether a child care provider is in compliance with applicable local laws and regulations and any additional requirements imposed on the provider by the district. However, a district may always conduct announced or unannounced inspections of the records and the premises of any provider of care to subsidized children as part of its audit function without the prior approval of the Office.

If the district finds any suspected violations of child care provider licensing or registration regulations promulgated by the Office, and the district must immediately notify the Office and provide the Office with an inspection report documenting the results of such inspection.

## 9. PAYMENT TO NON-COMPLIANT PROVIDER

A district may refuse to allow a child care provider that is not in compliance with regulations and requirements promulgated by the Office, or any additional district standards as approved by the Office, to provide subsidized child care services to a child. A district may refuse to provide subsidy payments to child care providers who are considered "non-compliant" as set forth herein.

(1) A legally-exempt, enrolled child care provider must be considered "non-compliant" for the purpose of stopping the issuance of subsidy payments if the district determines:

(a) the provider does not meet the health and safety requirements or other requirements set forth by the Office;

(b) the provider does not meet the definition of a legally-exempt family child care, legally-exempt in-home child care or legally-exempt group child care; or

(c) the provider does not meet locally defined additional requirements set forth in the district's CSP/ICP and approved by the Office.

(2) A licensed or registered child care provider has due process rights and may only be considered "non-compliant" for the purpose of stopping the issuance of subsidy payments, after one of the following events occurs:

(a) the provider's license or registration was suspended following a finding that the public health or a child's safety or welfare is in imminent danger;

(b) the provider was issued a letter to revoke or deny the provider's child care license or registration and the child care provider's due process hearing rights have been adhered to and all rights to appeal have been exhausted, resulting in a final decision to revoke or deny the provider's child care license or registration;

(c) the provider was issued a written notification that the provider's license or registration is no longer valid; or

(d) the provider is closed.

The district is responsible for documenting the eligibility status of a provider prior to approving payments for child care. The eligibility status of licensed and registered providers, except for day care centers licensed in New York City, can be verified by using the search capability of the CCFS. CCFS contains up-to-date information on suspension and/or closure actions taken by the Bureau of Early Childhood Services (BECS) licensors. Providers can be viewed according to their facility statuses.

Prior to approving the issuance of a child care subsidy payment, the district should review the statuses of licensed or registered child care providers in their area in CCFS to determine which, if any, have a status of "suspended" or "closed." When providers have been suspended or closed, the district should check the "status effective" date in CCFS to determine if the provider was "suspended" or "closed" during times when subsidized child care was provided. Payment cannot be made for child care provided during the times the provider was "suspended" or "closed." However, subsidy must be paid for child care provided for the time period that a program is legally allowed to continue to operate.

Any parent choosing to use a suspended provider should be made aware that such providers are ineligible for subsidy and the district may not issue subsidy payment for care provided by such provider.

## *10. DUE PROCESS REQUIREMENTS*

Written notice of the determination of eligibility and the family share to be paid by the applicant, or ineligibility for child care services, as well as any modification thereto, must be sent to the applicant or recipient. Recipients of child care services must receive timely and adequate notice of any change in child care services, except for changes in the manner of payment. A district must provide timely and adequate notice for those changes that result in a discontinuation, suspension, reduction or termination of such benefits, or force a change in child care arrangement.

An applicant or recipient of child care services must be notified of the right to a fair hearing whenever there is a determination affecting his or her family's eligibility for child care services.

## *11. JURISDICTIONAL REQUIREMENTS*

When a family which is guaranteed child care services moves from one district to another district within the State, the new social service district is responsible for paying the family's child care services

beginning with the second full month that the family lives in that district, provided the family remains eligible for guaranteed child care services. The former district is obligated to continue to pay for the guaranteed child care services during the month the family moves to the other district and the first full month following the month the family moved.

However, in a situation where the district *requires* a recipient to attend a program, such as substance abuse residential facility, in another district as part of his or her employment plan, the original district retains responsibility for providing TA benefits for that recipient. The original district is also responsible for all child care services needed for any child who moves to live with, or be near, the recipient, until the recipient's TA expires.

When a child is placed in foster care in a social service district outside of the district where the child resided at the time of placement, and the foster family needs child care services for the foster child and the foster family is eligible to receive such services, the district that has financial responsibility for the foster child will be responsible for providing child care services for the foster child.

For all other families not described above, the social service district where a family resides will be responsible for providing child care services.

## *12. OTHER ADMINISTRATIVE REQUIREMENTS*

A district has the following responsibilities for the administration of child care services:

(1) In the case of providers from whom the district purchases child care services, contracts, when required by 18 NYCRR section 405.3, must be negotiated in accordance with the purchase of service requirements set forth in such section. The district may review provider budgets, and must monitor attendance and payment records for providers.

(2) Required reports and claims for reimbursement must be prepared and submitted in the form and manner and at the times required by the Office of Temporary and Disability Assistance and the Office of Children and Family Services.

(3) Each district must collect and submit information to the Office, in the form and manner and at the times specified by the Office, concerning the disbursement of child care subsidy funds showing the geographic distribution of children receiving child care services from the district.

(4) The records required to be maintained by State and federal law and regulation, and by requirements of the Office of Temporary and Disability Assistance and the Office of Children and Family Services, must be retained as stated. A district must keep and retain adequate claiming records, retain appropriate documentation in the recipient's case file and make appropriate records available for audit by appropriate State and federal agencies.

(5) The district is responsible for reporting to the Office, in the form and manner and at the times required by the Office, specific information regarding child care services, including but not limited to, the number of children receiving each specific child care service, the costs of such services separated by the type of child care providers used, and any additional information required for the State to meet federal reporting requirements.

(6) The district must submit a child care services plan to the Office for approval as part of the district's multi-year CSP/ICP and any annual implementation reports. The plan must be

submitted in the form and manner prescribed by the Office and at the times required by the Office. A district's child care subsidy program must be implemented in accordance with the CSP/ICP approved by the Office.

## 13. CHILD CARE OVERPAYMENTS

### a) OCCURRENCE OF OVERPAYMENTS

Overpayments for child care services may occur as a result of payment for aid continuing for a parent/caretaker who lost a fair hearing. Additionally, overpayments may occur when an applicant or recipient fails to inform the district of changes affecting his or her family's eligibility or child care benefit level. These changes include but are not limited to the following:

- household income
- household composition
- work or approved activity schedule
- hours of care needed
- child care provider
- rate changes.

Overpayments may occur due to the failure of the provider to report changes. These changes include but are not limited to the following:

- child's absence, that is not covered by the district's absence policy
- child withdrawn from care
- hours of care provided
- rate changes.

Overpayments may also occur when a district fails to take timely action to make a change in the family's child care benefit level or when the district makes an error in calculation of the family's child care benefit level.

### b) DISTRICT ACTION TO CORRECT OVERPAYMENT

The district must take all reasonable steps to correct promptly any overpayments for child care services to a child's parent/caretaker or a child care provider. For the purposes of this section, "promptly", on the part of the district, means that corrective action must be taken and the client must receive a client notice within 60 days of the date the client notified the district of a change in circumstances. However, when an overpayment occurs as a result of a district's failure to act within 60 days on information provided by a parent/caretaker regarding the circumstances affecting child care benefits, no recovery may be made from the party who provided such information. In the case of a district calculation error or other error causing a child care overpayment, the corrective action must be taken and the client must receive a client notice within 60 days of the date of occurrence of the district error.

Although there is a 60 day grace period for corrective action on child care overpayments, a district is encouraged to take corrective action as soon as possible to lessen the economic impact on the family. A district *should not* wait until the next recertification period to recoup child care overpayments. Such a delay by the district may result in a family receiving additional child care benefits for which it is no longer eligible or applying an inappropriate amount towards the family share of child care costs.

### *c) Recovery of Overpayment*

The following actions are to be taken by the district to determine the overpayment and whether to recover the amount of overpayment:

- determine how the child care overpayment occurred and who was responsible for the overpayment. Responsible parties may include the district, parent, provider or a combination of one or more of these parties;
- determine the amount of the overpayment including the time period for which an overpayment occurred;
- estimate the costs of recovery; and
- determine whether the overpayment rises to the level of fraud.

The district must attempt to recover overpayments when:

- the overpayment resulted from fraud (regardless of the amount of overpayment or whether the parent/caretaker is a current or former recipient);
- the parent/caretaker is *currently* receiving child care benefits (regardless of the amount of overpayment); or
- the estimated cost of recovery of the overpayment from a *former* recipient is less than or equal to the amount of overpayment.

However, when an overpayment occurs as a result of a district's failure to act within 60 days on information provided by a parent/caretaker regarding the circumstances affecting child care benefits, no recovery may be made from the party who provided such information. State reimbursement and FFP cannot be claimed for child care overpayments if the district did not act promptly to correct the overpayment.

### *d) Mechanism of Recovery*

A district must determine the mechanism by which to collect a child care overpayment. Recovery of an overpayment may occur through:

- Repayment to the district by the child's parent/caretaker or provider, whomever is the responsible party.
- Increase in family share. When a child care overpayment occurs with a TA recipient the overpayment can be recouped by imposing a family share on the TA recipient.
- Reduction in the district's payment to the child care provider and increase in the parent/caretaker's family share except where a contract for such services obligates the district to make full payment.

- Recovery of overpayments can be made only from child care benefits unless the recipient voluntarily requests that it be made from his/her available income. If the family is *currently* in receipt of benefits, the district may reduce the amount of the child care benefit and increase the amount of the family share owed by the parent. Alternatively, the district may continue to pay the same benefit level to the provider but instruct the parent/caretaker to pay the family share directly to the district.

When it has been determined that a child care overpayment to a recipient or former recipient has occurred, which does not involve fraud, districts must complete Attachment D, OCFS/LDSS-7009, Notice of Child Care Assistance Overpayment and Repayment Requirements. This notice includes information on the time frame, amount and reason for the overpayment; the mechanism for collection of the overpayment; and the right to an agency conference and fair hearing if the recipient disagrees with the district's determination of the overpayment. The district must give the parent/caretaker the completed form and keep a copy of the signed form in the case record.

In recovering overpayments for child care services from child care recipients, the district must see that child care recipients retain a reasonable amount of funds for any given month. Recovery attempts and amounts must be reasonable. Ideally, complete recovery of all child care overpayments should occur within 12 months. However, in no event can the monthly recovery amount exceed 10% of the monthly gross income of the family. If the recovery amount would exceed 10% of the gross income, the recovery period must be extended beyond 12 months. A parent/caretaker may elect to waive the above limitations and pay back a child care overpayment in a lump sum, over a period of less than 12 months or in amounts that exceed 10% of his or her gross income. Alternatively, districts should consider those circumstances when a parent/caretaker requests that recovery amounts be reduced to less than 10% of the monthly gross income and collection periods be extended beyond 12 months because of undue hardship. In cases in which a TA recipient has no income beyond the TA grant, the district should delay recovery of the overpayment until the family has income in addition to the TA grant. Monthly gross income for a TA recipient includes the amount of the TA cash grant and any earned or unearned income.

When a parent/caretaker or provider is deemed responsible for the child care overpayment, due to acts of commission or omission, the overpayment must be recovered from the parent/caretaker on whose behalf the payments were made or the provider who received payment for such services, whoever is responsible for the overpayment. Overpayments to child care providers or former recipients of child care services who refuse to repay may be recovered in accordance with the legal remedies available under State law.

Underpayments and overpayments may be offset against each other. Districts must collect and maintain information on the collection of overpayments and make appropriate adjustments when claiming Federal Financial Participation (FFP) and State reimbursement, and when satisfying the district's maintenance of effort requirement under the NYSCCBG program. FFP and State reimbursement cannot be claimed for overpayments where no repayment is made and no recovery occurs.

### *e) Applicants with Outstanding Overpayments*

An applicant for child care services who has not re-paid past overpayments for previous child care services that resulted from the failure to notify the district of a change in circumstances or from fraud, must agree to and comply with a plan to make full repayment of such child care overpayments as a condition of being eligible for the new child care services.

### f) Suspending or Terminating Benefits

With the exception of child care services authorized as a child protective or a preventive service, a recipient of child care services who fails to comply with an agreed upon plan, must have his or her family's child care benefits suspended or terminated until such time as the recipient comes into compliance with such a plan.

In this situation, districts have the option to either suspend child care benefits or to reduce child care benefits. The OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits, must be sent prior to any action being taken on the recipient's child care benefits. However, districts must take into account that TA recipients cannot be sanctioned for non-participation in a work activity, if they do not have affordable child care. This situation must be examined when determining any reduction in child care benefits for TA families.

## 14. FRAUD

With the exception of child care services authorized as a child protective or child preventive service, a recipient or former recipient of child care services who has been convicted of or has voluntarily admitted to, on or after May 15, 2004, fraudulently receiving child care services is subject to a disqualification from the child care subsidy program.

### a) Voluntary Admission of Child Care Fraud

For the purpose of a voluntary admission by a recipient or former recipient, fraudulently receiving child care assistance means that an applicant or recipient applies for or receives child care assistance and intentionally misrepresents, conceals or withholds facts for the purpose of establishing or maintaining eligibility for or increasing the level of child care assistance. The district must obtain a written agreement signed by the individual in which the individual:

- understands and agrees that he or she or a member of the CCSU made a false or misleading statement or committed an act intended to mislead, misrepresent, conceal or withhold facts concerning eligibility for child care assistance;
- describes the fraudulent activity in which he or she participated;
- is notified of the disqualification penalties;
- is held responsible, along with members of the CCSU, for the repayment of any overpayment that resulted from the fraud; and,
- agrees that he or she understands the consequences of signing the agreement.

### b) Disqualification Penalties

A recipient or former recipient who has been convicted of or has voluntarily admitted to fraudulently receiving child care services, and the CCSU for which he or she is a member, are disqualified from receiving child care services for a period of time to be determined in accordance with the following time periods established for an Intentional Program Violation in the TA program as set forth in 18 NYCRR 359.9(a):

(1) for six months, for the first admission or conviction of child care fraud;

(2) for 12 months, for the second admission or conviction of child care fraud, or when the offense results in the wrongful receipt of benefits in an amount between $1,000 and $3,900;

(3) for 18 months, for the third admission or conviction of child care fraud or when the offense results in the wrongful receipt of benefits in an amount in excess of $3,900; or

(4) for five years, for the fourth or any subsequent admission or conviction of child care fraud.

The disqualification penalty will be applied as follows:

(1) For a family applying for child care services on or after May 15, 2004 who admitted or was convicted of child care fraud at any time in the past, the district will apply the appropriate disqualification penalty to the applicant and CCSU.

(2) For a family who applied for child care services prior to May 15, 2004 who admitted or was convicted of child care fraud at any time in the past and the district makes the determination of eligibility on or after May 15, 2004, the district will apply the appropriate disqualification to the applicant and CCSU.

(3) For a current recipient who was authorized for child care services prior to May 15, 2004 and who admitted or was convicted of child care fraud on or after May 15, 2004, the district will apply the appropriate disqualification penalty to the recipient and CCSU.

(4) For a current recipient who was authorized for child care services prior to May 15, 2004 and who admitted or was convicted of child care fraud prior to May 15, 2004, the district may not apply a disqualification penalty to the recipient and CCSU.

The disqualification penalty is applied to applicants or recipients that are otherwise eligible for a child care subsidy. If an application for child care is denied or a case is closed because the applicant/recipient is not otherwise eligible, then the disqualification is pended until the individual reapplies and is found eligible for child care subsidies.

If a recipient of TA needs child care in order to participate in an activity required by the district, the disqualification of eligibility for child care services based on a child care fraud conviction or voluntary admission will be suspended during the recipient's participation in the required activity. However, the disqualification period will commence once the recipient is no longer participating in a required activity.

The district must notify applicants, recipients and former recipients when they are subject to a disqualification for child care fraud by using the Attachment E, OCFS/LDSS-7010, Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan. The district must give the parent/caretaker the completed form and keep a copy of the signed form in the case record.

## F. SPECIAL PROVISIONS RELATING TO TEMPORARY ASSISTANCE RECIPIENTS

The following provisions apply to TA recipients:

(1) Child care services are guaranteed to a family who has applied for or is in receipt of temporary assistance when such services are needed for a child under thirteen years of age in order to enable the child's custodial parent or caretaker relative to participate in activities required by a social services official pursuant to title 9-B of article 5 of the Social Services Law.

(2) A district may not reduce or terminate TA to an individual or an individual and the family of such individual based on a refusal of the individual to comply with applicable work requirements if the individual is a custodial parent or caretaker relative of a child under 13 years of age and the individual has a demonstrated inability, as determined by the district, to obtain child care needed to comply with such work requirements due to the following reasons:

(a) Unavailability of appropriate and accessible child care within a reasonable distance from the individual's home or work site;

(b) Unavailability or unsuitability of informal child care by a relative or under other arrangements; and

(c) Unavailability of appropriate and affordable formal child care arrangements.

(3) For the purposes of this section, the following definitions apply:

(a) **Applicable** child means a child under thirteen years of age who is residing with a custodial parent or caretaker relative and who needs child care in order for the parent or caretaker relative to comply with the applicable work requirements.

(b) **Appropriate** means the child care provider(s) is open for the hours and days the parent or caretaker relative would need child care in order to comply with the applicable work requirements and the provider(s) is able and willing to provide child care services to the applicable child including addressing any special needs of the applicable child.

(c) **Accessible** means the parent or caretaker relative is able, by available public or private transportation, to get the applicable child to and from the child care provider(s) taking into consideration the age and any special needs of the child.

(d) **Reasonable distance** means the child care provider(s) is located within a reasonable distance from the parent or caretaker relative's home and work activity, based on locally accepted community standards, as defined in the district's CSP/ICP.

(e) **Unsuitability** of informal child care means the physical condition of the home in which care would be provided, or the physical or mental condition of the informal provider, would be detrimental to the health, welfare and/or safety of the applicable child.

(f) **Affordable** means the parent or caretaker relative would have sufficient income to pay the family share for the child care services, if required, and/or to pay the cost of care above market rate, if applicable. If the potential provider is a provider of informal child care who would be providing care in the child's home, affordable also means that the parent or caretaker relative would have sufficient income to pay the provider at least minimum wage, if required by State and/or federal law, and to provide such provider with all employment benefits required by State and federal law.

(4) The district must inform the family:

(a) About the exception to the penalties associated with the work requirement if the family is unable to locate child care needed to comply with applicable work requirements. The district must explain the procedures used to demonstrate an inability to obtain child care and the definitions of the terms "appropriate" "accessible", "reasonable distance", "unsuitability of informal child care" and "affordable"; and

(b) That any family assistance received during the time the parent or caretaker relative receives an exception from the work requirements under this section will count toward the family's 60 month limit on receiving such benefits.

(5) It is the responsibility of the parent or caretaker relative to locate child care needed to comply with such work requirements.

(6) If the parent or caretaker relative cannot locate the needed child care on his or her own, the parent or caretaker relative must inform the district of his or her efforts to locate such care and request additional assistance in locating care.

(7) When a parent or caretaker relative requests assistance from the district in locating child care due to an inability to locate the needed child care on his or her own, the district must:

(a) Assist the family by referring the parent or caretaker relative to the child care resource and referral agency that is responsible for the areas in which the parent or caretaker relative lives and/or would be expected to work or to another appropriate child care referral agency; and/or

(b) Provide the parent or caretaker relative with a list of names, addresses and telephone numbers of eligible providers.

(8) The parent or caretaker relative must follow-up on all referrals from the district, child care resource and referral agency and/or other child care referral agency, as applicable, and must report his or her success or failure to the district. In order to be excused from complying with the applicable work requirements, the parent or caretaker relative must have a demonstrated inability, as determined by the district, to locate the needed child care for the applicable child(ren) despite the referrals from the district, the child care resource and referral agency and/or any other child care referral agency, as applicable.

(9) If the parent or caretaker relative has a demonstrated inability, as determined by the district, to locate the child care needed for the applicable child(ren) despite such referrals, the district must offer the parent or caretaker relative two choices of eligible child care providers at least one of which must be a licensed or registered provider.

If the parent or caretaker relative is unwilling to accept child care services from either of these providers; is unable to demonstrate, as determined by the district, that such child care is not appropriate, accessible, suitable, affordable or a reasonable distance from the individual's home or work site; and the individual fails to comply with the applicable work requirements, then the district may reduce or terminate temporary assistance to such parent or caretaker relative and/or that individual's family in accordance with applicable statutory or regulatory provisions.

(10) A district must determine that a parent or caretaker relative has a demonstrated inability to locate needed child care if all of the following conditions are met:

(a) The parent or caretaker relative has provided an attestation that he or she has contacted those accessible and suitable friends, neighbors and relatives who are within a reasonable distance of the individual's home or work site and who have the potential to act as informal child care providers for the applicable child(ren) but those individuals are not appropriate or affordable. The attestation must include a list of the names of the friends, neighbors and relatives the parent or caretaker relative contacted; and

(b) The parent or caretaker relative has provided an attestation that he or she has contacted all of the child care providers to which the parent or caretaker relative was referred by the district, a child care resource and referral agency and/or any other child care agency, as applicable. The attestation must specify the names of each potential provider contacted and the reasons why that provider is not appropriate, accessible, suitable, affordable or a reasonable distance from the individuals home or work site.

(11) The district must review and verify the attestations provided by the parent or caretaker relative. If the attestations validly document the unavailability of appropriate, accessible, suitable, affordable child care within a reasonable distance from the individual's home or work site, the district must excuse the parent or caretaker relative from the applicable work requirements.

(12) A parent or caretaker relative who has been excused from the applicable work requirements due to a demonstrated inability to locate needed child care for his or her applicable child(ren) will be excused from the work requirements only for so long as that demonstrated inability continues to exist.

The parent or caretaker relative must document to the district, through the submission of new attestations on a periodic basis as set forth by the district, that the parent or caretaker relative is continuing to attempt to locate the needed child care including following-up on all new referrals from the district, child care resource and referral agency, and/or any other child care agency, as applicable, and by responding to all offers of child care from the district. New attestations must be submitted in accordance with a schedule developed by the district based on the parent's or the caretaker relative's employment plan.

## G. CHILD SUPPORT REQUIREMENTS

This section replaces the child care sections of 99 ADM-5 and 00 INF-2.

### *1. RESPONSIBILITIES OF PARENT/CARETAKER*

For all households in which a parent is continually absent, the custodial parent/caretaker seeking a child care subsidy must demonstrate that: he or she has court-ordered child support in place, he or she is actively pursuing a court order for child support, or he or she has good cause not to actively pursue child support (see additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause). Voluntary payment of child support on the part of the non-custodial parent or alleged non-custodial parent, without a written separation agreement signed by both parties or a court order specifying child support, does not meet the child care requirement to actively pursue child support. The requirement to actively pursue child support pertains to all children in the CCSU even if the custodial parent/caretaker is not requesting a child care subsidy for each and every child under 13 years of age. However, no amendment to a child support order should be sought to add child care expenses for any child age 13 years or older.

A custodial parent/caretaker can demonstrate to the child care unit that he or she is actively pursuing child support either by:

a. providing documentation that he or she has applied for services from the Child Support Enforcement Unit (CSEU); or

b. providing documentation that he or she is actively pursuing child support privately.

In some circumstances, the custodial parent/caretaker may be asked to actively pursue a modification of an order that does not specifically address child care expenses (see *section III.G.6.d, Establishing and Modifying Child Support Orders* of this ADM).

Once court-ordered child support is in place, the custodial parent/caretaker must continue to actively pursue support by modifying and enforcing the order, if appropriate. If the custodial parent/caretaker has applied for child support services from the CSEU, the CSEU will provide services to establish, modify or enforce the child support order.

A custodial parent/caretaker, who has chosen not to actively pursue support by applying for child support services through the CSEU, must demonstrate the actions he or she, or his or her legal representative, is taking to establish, modify, or enforce child support.

The custodial parent/caretaker must demonstrate to the child care worker that he or she is continuing to actively pursue child support. Copies of subpoenas, petitions, and scheduled court dates must be provided by the custodial parent/caretaker to the child care worker to demonstrate the custodial parent/caretaker is continuing to actively pursue support.

#### *a) Intact Households - Parents of Children Born Out of Wedlock*

The court will not order child support when both parents are living with the child because there is no non-custodial parent to be held chargeable under a court order for child support. While the district may encourage these parents to legally establish paternity, there is no child care eligibility requirement to establish paternity or to seek child support so long as the parents and child(ren) reside together. If one of the parents moves out of the household, the custodial parent must actively pursue child support from the non-custodial parent in order to be eligible for child care subsidy, unless a good cause exception exists.

#### *b) Custodial Parents in Receipt of Temporary Assistance*

If the custodial parent or caretaker relative is already pursuing court-ordered support through the CSEU under the requirements of the TA program, his or her continued compliance under the TA program will meet the child care requirement to actively pursue child support. If the custodial parent or caretaker relative has a good cause exception and/or a child support waiver due to domestic violence, the custodial parent or caretaker relative does not need to cooperate with child support requirements in order to receive child care while the good cause exception and/or waiver are in effect.

In addition, a custodial parent or caretaker relative, who receives TA and needs child care in order to participate in an activity required by the district, is guaranteed child care services even if the children are not in receipt of TA (such as those in receipt of SSI), and even if the custodial parent or caretaker relative fails to cooperate with TA child support requirements. The guarantee of child care for the TA custodial parent or caretaker relative supersedes the child care requirement to pursue child support.

However, a custodial parent or caretaker relative who is receiving TA, but is not required by TA to pursue child support, and who needs child care for a purpose not covered by the child care guarantee, must actively pursue child support in order to be eligible for child care services. This circumstance may

occur when the child is in receipt of SSI and the custodial parent or caretaker relative needs child care in order to participate in an activity that is not required by the district (e.g., to attend college in addition to meeting their TA work requirements). The child care guarantee would apply to the time the custodial parent or caretaker is working. However, since attending college is an optional activity that is in addition to his or her required TA activity, the child care guarantee would not apply for care needed to attend college. In order to receive child care for college attendance in addition to child care for his or her TA work requirement, the district must have included this activity in its CSP/ICP, have child care funds available and the custodial parent or caretaker relative must actively pursue child support.

#### *c) Custodial Parents in Receipt of Medical Assistance*

If the custodial parent/caretaker is in receipt of Medical Assistance (MA) for the child and is already actively pursuing child support, his or her continued compliance will meet the child care requirement to actively pursue child support. This assumes that the parent/caretaker is pursuing cash support as well as medical support. If the parent/caretaker is not pursuing cash support for the child, he or she will be required to do so for purposes of the child care subsidy eligibility. If the custodial parent/caretaker has a good cause exception, the custodial parent/caretaker does not need to actively pursue child support requirements in order to receive child care benefits while the good cause exception is in effect. See additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause.

#### *d) Transitioning Clients and Clients Eligible for "Child Care in Lieu of TA"*

Transitioning clients who meet the eligibility criteria for the transitional guarantee and clients who are eligible for the "child care in lieu of TA" guarantee must actively pursue child support. The child care guarantee in these cases does not supersede the requirement to actively pursue child support.

The custodial parent or caretaker relative may still claim the good cause exception. Additionally, if the client can demonstrate that there was a child support waiver due to domestic violence (DV) at the time of the TA case closing, the child care worker must evaluate with the custodial parent or caretaker relative whether good cause still exists. A DV waiver that is dated within the last 12 months is sufficient evidence to demonstrate good cause. See additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause.

#### *e) Custodial Parents Not in Receipt of TA*

A custodial parent/caretaker who is applying for or receiving child care but is not receiving TA must demonstrate that he or she is actively pursuing child support unless he or she has a good cause exception (see additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause). In order to meet this requirement, the custodial parent/caretaker may apply for child support services through the CSEU, or may pursue child support by hiring a legal representative or pursue court-ordered child support on his or her own behalf. If he or she chooses to apply for child support services through the CSEU, he or she must complete the DSS-2521, Application for Child Support Services, and must voluntarily continue to actively pursue child support as described in *section III.G.2, Actively Pursuing Child Support Through the CSEU* of this ADM. In the absence of voluntary compliance with child support activities, the CSEU will close the child support case. In these cases, in order to maintain eligibility for child care services, the custodial parent/caretaker must demonstrate to the child care worker that he or she is actively pursuing child support through other legal means (i.e.

privately) or demonstrate good cause not to actively pursue child support.

#### *f) Non-Custodial Parents Who Have Signed a Consent for Adoption and/or Have Voluntarily Surrendered Their Parental Rights*

If a non-custodial parent has signed a consent for adoption and/or surrendered his or her parental rights, the custodial parent/caretaker will not be required to pursue child support for this child in order to be eligible for child care benefits.

#### *g) Caretakers Who are Not the Child's Parents*

A caretaker, legal guardian and other individual acting in loco parentis of a child and applying for child care services, is required to demonstrate that he or she is actively pursuing child support from the child's parents unless there is a good cause exception not to do so (see additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause). Child care workers should carefully consider the circumstances under which the child was placed in the household of the caretaker. In many of these cases, the caretaker may have good cause not to actively pursue child support.

#### *h) Foster Parents*

Foster parents, caring for a child who is in the care and custody of the local social services district, that apply for a child care subsidy for such a foster child are exempt from child support requirements for that foster child. This exemption only applies to the foster child. If the foster parents need child care services for their own children, they must actively pursue child support for their own children parents unless there is a good cause exception not to do so (see additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause).

### *2. ACTIVELY PURSUING CHILD SUPPORT THROUGH THE CSEU*

Obtaining an appointment with the CSEU may be the first step in actively pursuing child support and should be considered acceptable proof of intent to comply with the requirement to actively pursue child support until it is shown or evidence appears to the contrary. Actively pursuing child support through the CSEU means that the custodial parent/caretaker: applies for child support services by completing the DSS-2521, Application for Child Support Services; takes any necessary steps to establish the paternity of a child born out of wedlock; establishes and enforces orders of child support; and modifies orders of child support, where appropriate, to be consistent with the Child Support Standards Act, which includes a provision for the payment of reasonable child care expenses. The custodial parent/caretaker may need to seek the assistance of the CSEU when an order needs to be modified; may have to appear in court; and, in some districts, will be responsible for filing the petition.

It is the responsibility of the custodial parent/caretaker to demonstrate he or she is actively pursuing support through the CSEU by providing documentation that he or she has applied for CSEU services. The custodial parent/caretaker must write and submit a status report and provide copies of supporting documentation to the child care worker. The status reports must, where applicable and appropriate: indicate when petitions will be filed and court dates have been scheduled, provide proof of attendance at required court dates, provide reasons for any delays granted by the court and provide any other information that would demonstrate the custodial parent/caretaker's active pursuit of child support based

on the stage of the child support enforcement process. If a custodial parent/caretaker is unable to provide verification to the child care worker, the district should determine whether the custodial parent/caretaker should seek assistance from the CSEU or the Family Court in obtaining copies of documents to demonstrate active pursuit of child support.

With the exception of legal services, child support services through the CSEU are provided free of charge. Custodial parents/caretakers who choose to receive legal services in addition to child support services, must sign the Right to Recovery section of the DSS-2521. The costs of any legal services will be recovered only when child support is collected. A custodial parent/caretaker is not required to obtain legal services as part of his or her active pursuit of child support. He or she may choose to represent himself or herself, request legal services from the CSEU or hire his or her own attorney.

Actively pursuing support through the CSEU is one of two ways to demonstrate to the child care unit that the custodial parent/caretaker is actively pursuing child support. In the event that the custodial parent/caretaker elects not to continue to actively pursue support through the CSEU, the CSEU will close the child support services case based on established child support case closure procedures. The custodial parent/caretaker must then demonstrate to the child care worker that he or she is actively pursuing support privately in order to maintain child care eligibility or demonstrate that he or she has good cause not to pursue child support (see additional information in the *section III.G.5, Good Cause* of this ADM for criteria on establishing good cause).

### 3. ACTIVELY PURSUING CHILD SUPPORT PRIVATELY

Actively pursuing child support privately means the custodial parent (either on his or her own or through the assistance of an attorney) is actively participating in the activities that will lead to the establishment, modification or enforcement of court-ordered child support within a reasonable period of time.

Initially, the custodial parent/caretaker must submit in writing to the district a plan of activities and timeframes for the accomplishment of the establishment, modification or enforcement of a child support order. Such a plan must demonstrate the activities and timeframes for completion are reasonable.

The custodial parent/caretaker must also provide a written update to the plan of activities, no less frequently than at recertification, to demonstrate that he or she is actively engaged in and completing the activities in the plan. The update must include documentation, where applicable and appropriate, that:

- petitions to establish, modify or enforce child support have been or are being filed (including copies of petitions);
- court dates have been arranged and the custodial parent/caretaker or the legal representative has appeared in court on those dates; or
- the acknowledgment of paternity or order of filiation has been completed; and
- the custodial parent/caretaker has obtained a court order for child support.

### 4. LACK OF INFORMATION

The district must establish procedures for interviewing the custodial parent/caretaker who indicates an

inability to provide sufficient information. These procedures must address providing the custodial parent/caretaker with an opportunity to sign the LDSS-4281, Attestation to Lack of Information form[2]. This activity may be conducted by the child care worker or district designee and may be charged to program costs under the NYSCCBG.

If the custodial parent/caretaker claims lack of information *after* applying for CSEU services, the district must either:

- refer the custodial parent/caretaker to the child care unit to sign the LDSS-4281, Attestation to Lack of Information and close the child support services case, if one had been opened; or
- the CSEU may complete and return the LDSS-4281, Attestation to Lack of Information form to the child care worker and close the child support services case. However, completing the LDSS-4281 is not a required activity under the IV-D program (i.e. for non-TA families). Therefore, this activity must be time studied and cannot be claimed as a child support activity.

If the custodial parent/caretaker has completed, signed and submitted the LDSS-4281 to the child care worker, the custodial parent/caretaker will be excused from actively pursuing child support.

## 5. GOOD CAUSE

### a) OPPORTUNITY TO CLAIM GOOD CAUSE

An applicant for, or recipient of, child care services has the right to claim good cause for not actively pursuing child support. This is explained in the OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F. The applicant/recipient can make a good cause claim by completing and returning to the district, the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim, Attachment G. The district must provide the OCFS/LDSS-7013, Child Support Requirements Notification Letter to the client along with the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim form. A signed copy of the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim form must be filed in the case record.

If a custodial parent/caretaker is claiming a good cause exception, the case must not be referred to the CSEU pending the determination of whether good cause exists by the child care worker or designee. If the claim of good cause is not raised by the custodial parent/caretaker until after he or she has submitted an application for child support services and raises the good cause issue with the CSEU, the child support worker must assess whether the custodial parent/caretaker wishes to have the CSEU continue with child support services and if not, close the child support case. In addition, the child support worker should refer the case to the child care unit for a determination of good cause.

For child care purposes, good cause exists if pursuing child support would adversely affect the health, safety or welfare of the child or of other persons in the child's household.

If a district so chooses, it may contract with not-for-profit or other agencies or organizations to review and make determinations of good cause. Districts may use NYSCCBG subsidy program funds to pay for contractual services relative to the determination of good cause.

### *b) Applicant or Recipient Requirement to Establish Existence of Good Cause*

An applicant or recipient who refuses to actively pursue child support and who claims to have good cause for not actively pursuing child support must establish that good cause exists and will be required to:

(1) Specify the circumstances that the applicant or recipient believes provide sufficient good cause for not actively pursuing child support;

(2) Corroborate the good cause circumstances; and

(3) If requested, provide sufficient information to permit an investigation of the good cause claim.

### *c) Circumstances Under Which Active Pursuit of Child Support is Against the Best Interest of the Child or Other Members of the Household*

The following are considered to be circumstances under which the active pursuit of child support would be against the best interest of the child because it would adversely affect the health, safety or welfare of the child on whose behalf such child support payments are to be made or would adversely affect the health, safety or welfare of another person in the child's household:

(1) Active pursuit of child support is expected to result in physical harm to the child for whom support is sought;

(2) Active pursuit of child support is expected to result in emotional harm to the child for whom support is sought;

(3) Active pursuit of child support is expected to result in physical or emotional harm to the custodial parent/caretaker sufficient to impair the custodial parent/caretaker's ability to care for the child adequately;

(4) Active pursuit of child support is expected to result in physical or emotional harm to any other member of the child's household;

(5) The child for whom child support is sought was conceived as a result of incest or forcible rape;

(6) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction;

(7) The custodial parent/caretaker is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and discussions have gone on for less than three months; or

(8) The non-custodial parent's rights have been terminated or voluntarily surrendered.

Physical harm and emotional harm must be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm may only be based on a demonstration of an emotional impairment that substantially affects the individual's functioning.

#### *Special Considerations Related to Emotional Harm*

For each good cause claim that is based in whole or in part upon the anticipation of emotional harm, the child care worker or designee must consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional history of the individual subject to harm;

(3) The intensity and probable duration of the emotional upset;

(4) The degree of active pursuit required; and

(5) The extent of the involvement of the child or individual subject to emotional harm in paternity establishment or support enforcement activity to be undertaken.

The child care worker or appropriate designee must document the findings with respect to the above factors in the case record.

### *d) Special Considerations When Good Cause Involves Domestic Violence*

The child care worker should review the documentation provided by the custodial parent/caretaker. If the documentation is sufficient to verify the good cause claim, the child care worker should make the determination at that time.

If there is no documentation or insufficient documentation, the custodial parent/caretaker may be referred to the domestic violence liaison (DVL) for a more complete assessment. The DVL will make a recommendation regarding the credibility of the claim that the DV situation represents a danger to the custodial parent/caretaker, the child or another member of the household and notify the child care worker of the recommendation. Based on the findings and recommendation of the DVL, the child care worker and supervisor will make the final determination on the good cause claim.

A referral may also be made to the DVL or a local community based domestic violence services organization for information and referral for domestic violence services. The referral for information and services should only be made if the custodial parent/caretaker agrees to such a referral. It is the decision of the custodial parent/caretaker whether or not to seek domestic violence services.

### *e) Proof of Good Cause Claim*

The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made on the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim. If the child care worker or appropriate designee determines that the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, upon supervisory approval, the child care worker or appropriate designee must allow a reasonable additional period of time.

Good cause may be corroborated with the following types of evidence:

(1) Court, medical, criminal, child protective services, social services, psychological or law enforcement records indicating that the alleged non-custodial parent might inflict physical or emotional harm on the child or custodial parent/caretaker or other member of the household;

(2) Medical records indicating that the child, custodial parent/caretaker or other household member has an emotional health history and a present emotional health status which indicates that pursuing child support would be detrimental to the mental and/or emotional health of the applicable individual;

(3) A domestic violence waiver issued to a former TA recipient and dated within the last 12 months will be considered a demonstration of good cause. Once the date of the waiver exceeds 12 months, good cause will need to be redetermined by the child care worker or appropriate designee;

(4) A birth certificate, medical record or law enforcement record indicating that the child was conceived as the result of incest or forcible rape;

(5) Court or other documents indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;

(6) A written statement from a public or licensed private social agency that it is assisting the custodial parent/caretaker to decide whether to keep the child or release the child for adoption; or

(7) Sworn statements from individuals (other than the applicant or recipient ) with knowledge of the good cause circumstances, which provide the basis for the good cause claim. A "sworn" statement is signed before, and witnessed and signed by, a person who is empowered to administer an oath to the testifier. Persons authorized to administer such oaths include public notaries, commissioners of deeds, judges, town justices, and justices of the peace. The sworn statement must attest to circumstances that would indicate that pursuing child support would adversely affect the health, safety or welfare of a household member.

### *f) The Need for Additional Corroborative Evidence*

If after examining the corroborative evidence submitted by the applicant or recipient, the child care worker or appropriate designee determines that additional corroborative evidence is needed to make a good cause determination, the child care worker or appropriate designee will:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and

(2) Specify the type of document needed.

If requested by the applicant or recipient, the child care worker or appropriate designee must advise the applicant or recipient how to obtain the necessary documents. Additionally, if requested by the applicant, the child care worker or appropriate designee must make a reasonable effort to obtain any specific documents that the applicant or recipient is not reasonably able to obtain without assistance.

### *g) Investigation of Good Cause Claim when Insufficient Corroborative Evidence Presented*

The child care worker or appropriate designee may further verify the good cause claim by conducting an investigation if the applicant's or recipient's statement of the claim, together with the corroborative evidence, does not provide sufficient information. In domestic violence situations, the parent/caretaker may be referred to the DVL for a more complete assessment.

### *h) Lack of Corroborative Evidence for Claim Based on the Applicant's/Recipient's Anticipation of Physical Harm*

Where a good cause claim is based on the applicant's or recipient's anticipation of physical harm and

corroborative evidence is not submitted in support of the claim:

(1) the child care worker or an appropriate designee will investigate the good cause claim when the child care worker or appropriate designee believes the claim is credible without corroborative evidence, and corroborative evidence is not available;

(2) good cause will be found if the claimant's sworn statement and the investigation which is conducted satisfy the child care worker, or appropriate designee, that the applicant or recipient has good cause for refusing to actively pursue child support;

(3) supervisory personnel must approve the determination of good cause and note that approval in the case record; and

(4) anticipated physical harm must be of a serious nature in order to justify a finding of good cause. In domestic violence situations, the parent/caretaker may be referred to the DVL for a more complete assessment.

### *i) Child Care Assistance Pending a Good Cause Determination*

The child care worker or appropriate designee must not deny, delay or discontinue child care assistance pending a determination of good cause for not actively pursuing child support if the applicant or recipient has complied with the requirement to furnish corroborative evidence and information or has been referred to the domestic violence liaison for a more complete assessment.

An application or recertification for child care services must be authorized for a maximum period of three months pending a good cause determination. If good cause exists, the authorization for purchase of services must be extended to the normal six-month or twelve-month redetermination period.

### *j) Final Determination and Notification of Good Cause*

The child care worker or appropriate designee's determination of whether good cause exists and the basis for the determination must be approved by a supervisor. The final determination of good cause must be in writing; contain the findings and basis for the determination; and be entered in the case record.

The final determination must be made within 30 days from the day the good cause claim is made. The child care worker or appropriate designee may exceed 30 days when the case record documents that additional time is needed because information required to verify the claim cannot be obtained within the 30 days or the custodial parent/caretaker did not provide corroborative evidence within 20 days.

Notification of the good cause determination must be given to the custodial parent/caretaker in writing (see Attachment H, OCFS/LDSS-7012, Notice of Good Cause Determination). A notification that good cause was found to exist excuses the custodial parent/caretaker from actively pursuing child support. The good cause exception from actively pursuing child support may be temporary or permanent depending on the circumstances of the good cause claim. See *section III.G.5.k, Periodic Review of Good Cause* of this ADM for additional information.

If the determination is that good cause does not exist:

(1) the child care worker or appropriate designee must notify the applicant or recipient (see Attachment H, OCFS/LDSS-7012, Notice of Good Cause Determination) and afford the applicant or recipient the opportunity to demonstrate he or she will actively pursue child

support, withdraw his or her application for child care, or have his or her child care case closed. The custodial parent/caretaker must be informed of his or her right to an agency conference or fair hearing to contest the determination that good cause does not exist. No action to deny or discontinue child care benefits can be made on the basis of the OCFS/LDSS-7012;

(2) if the applicant or recipient continues to refuse to actively pursue child support absent a fair hearing decision issued in his or her favor, the child care worker or appropriate designee must send the applicant a denial of his or her application for child care benefits, OCFS/LDSS-4780, Denial of Your Application for Child Care Benefits. If the custodial parent/caretaker is a recipient, the child care worker or appropriate designee must send the custodial parent/caretaker the OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits. The child care applicant or recipient then has the option to allow the case action of denial or case closing to take place, or contest the decision to deny or discontinue child care benefits by requesting a fair hearing, or demonstrate he or she is actively pursuing child support.

All of the above-referenced notices must be both adequate and timely.

### *k) Periodic Review of Good Cause*

The child care worker or appropriate designee must periodically review, no less frequently than at each recertification, those cases in which the child care worker or appropriate designee determined that good cause exists based on a circumstance that is subject to change. In those cases, it is the parent/caretaker's responsibility to provide documentation to support a determination that good cause continues to exist. If the child care worker determines that circumstances have changed to the extent that good cause no longer exists, the district must provide the custodial parent/caretaker with the notice specified above in *section III.G.5.j, Final Determination and Notification of Good Cause* of this ADM.

### *l) Confidentiality*

If the good cause exception stems from a claim of domestic violence, child protective or adult protective issues, the district must take precautions to see that this information is secured in the case file and maintained in a confidential manner. 18 NYCRR 357.3(i) and NYS policy stated in 98 ADM-3 Section IV-I on confidentiality related to victims of domestic violence; 18 NYCRR 457.16 on confidentiality related to adult protective services; and, 18 NYCRR 432.7 on confidentiality related to child protective services state that local district social service employees may not reveal information obtained in the course of administering assistance or services to unauthorized sources. Client information that must be safeguarded includes: applications, eligibility status, benefit issuance, investigations and contents of the case record or file. The confidentiality policy applies to all client information maintained and secured by the district whether it is contained in a written record or exchanged verbally.

## 6. CHILD CARE WORKER RESPONSIBILITIES

### a) NOTIFYING CUSTODIAL PARENTS/CARETAKERS

In cases where there is a non-custodial parent, child care workers must inform the custodial parent/caretaker, in writing, of the custodial parent/caretaker's responsibility to actively pursue child support through the CSEU or privately.

The child care worker must first ascertain whether or not the custodial parent/caretaker has previously applied for child support services and, if so, must determine the current status of the child support case. If the custodial parent/caretaker has an active child support case with the CSEU, the custodial parent/caretaker must provide the child care worker with a status report demonstrating that he or she continues to actively pursue support through the CSEU. If the CSEU has sent the custodial parent/caretaker the Contact Notice or the Notice of Intent to Close, and the custodial parent/caretaker has not responded to the CSEU, the custodial parent/caretaker is not considered to be actively pursuing child support.

If the custodial parent/caretaker had previously applied for child support services but the child support case is closed, the child care worker must determine the reason for the child support case closing. Districts may determine whether to obtain information on case closings from the custodial parent/caretaker or from the CSEU. If the case was closed by the CSEU for any of the following reasons, the custodial parent/caretaker is excused from the requirement to actively pursue child support:

- the non-custodial parent is deceased and no further action, including a levy against the estate, can be taken;
- paternity cannot be established;
- the non-custodial parent's location is unknown and regular attempts have been made unsuccessfully to locate the non-custodial parent over a three year period;
- the non-custodial parent cannot pay support for the duration of the child's minority because the non-custodial parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential; or
- the non-custodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, has no reachable domestic income or assets, and reciprocity has not been established with such foreign country.

If the child support services case was closed at the custodial parent/caretaker's request or was closed due to the custodial parent/caretaker's failure to cooperate with the CSEU, the custodial parent/caretaker is not considered to be actively pursuing child support. The custodial parent/caretaker must then demonstrate that he or she is actively pursuing child support privately or has re-applied for child support services from the CSEU in order to meet the child care eligibility requirement of actively pursuing child support or demonstrate good cause not to actively pursue child support.

The child care worker or appropriate designee must notify the applicant or recipient in writing of the right to claim good cause as an exception to the requirement to actively pursue child support and of all the requirements applicable to a good cause determination.

Districts must use the model letter, the OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F, or a local equivalent to notify custodial parents/caretakers of their responsibilities regarding child support.

Such notice must inform:

- the custodial parent/caretaker of his or her responsibility to actively pursue child support which may include establishment of paternity;
- the custodial parent/caretaker of the things he or she may have to do to demonstrate he or she is actively pursuing child support;
- the custodial parent/caretaker how to document that he or she is actively pursuing child support;
- the custodial parent/caretaker of what he or she needs to do if he or she does not have a court order for child support;
- the custodial parent/caretaker that he or she may need to modify the court order if the order does not include child care expenses;
- the custodial parent/caretaker, if he or she has a court order but is not receiving child support payments, that he or she must initiate and follow through with steps to enforce the order, if appropriate;
- the custodial parent/caretaker of his or her right to make a good cause claim at any time by informing his or her worker;
- the custodial parent/caretaker of the procedures for claiming good cause not to actively pursue child support; and
- the mother of the father's rights if paternity is established.

The notification letter must be accompanied by the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim, Attachment G. A copy of the written notification must be maintained in the custodial parent/caretaker's case record.

#### *b) Submittal of the DSS-2521: Application for Child Support Services*

Child care *applicants* choosing to go to the CSEU for assistance in actively pursuing child support, must complete and sign the DSS-2521. If the applicant, including one who will be placed on a waiting list for a child care subsidy, submits the DSS-2521 to the child care worker, the child care unit must forward the completed DSS-2521 to the CSEU. When child care workers submit the DSS-2521, workers can include their name as the name of referring official (in the agency use only box at the top of the DSS-2521).

No action will be taken to approve the child care application until the child care applicant documents that he or she has requested an appointment from the CSEU or has submitted the DSS-2521 to the child care worker or the CSEU; or documents that he or she is actively pursuing child support order privately. Once the documentation is received demonstrating that the applicant is actively pursuing child support, the child care application can be processed. If the child care applicant cannot demonstrate he or she is actively pursuing child support within 30 days of submitting the child care application, the application must be denied for failure to comply with the requirement to actively pursue child support unless there is good cause not to actively pursue child support.

There is an exception for child care applicants who are claiming good cause. If the child care applicant has submitted the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim, Attachment G, indicating he or she has good cause not to pursue child support, and he or she is otherwise eligible for child care, the child care must be authorized pending the good cause determination. An application by a custodial parent/caretaker who is claiming good cause must be acted upon within 30 days. If the custodial parent/caretaker is otherwise eligible but additional time is needed to demonstrate good cause, child care may be authorized for up to three months while the good cause determination is pending. Districts cannot delay approval of a child care application while a good cause determination is pending so long as the applicant has complied with the requirement to furnish corroborative evidence and information.

If an applicant has a child support order in place that does not include child care expenses, the applicant may be required to pursue modification of the order. Refer to *section III.G.6.d, Establishing and Modifying Child Support Orders* of this ADM for additional information on modifications.

#### *c) Grace Period During Initial Year of Implementation (May 15, 2004 - May 14, 2005)*

In a case where there is a non-custodial parent, the district must notify each non-TA child care *recipient* (with an open child care case on May 14, 2004) of the requirement to actively pursue child support. A due date must be included in the notification letter. The due date is based on the timeframe for implementation of the child support requirements for non-TA recipients that is selected by district in its CSP/ICP. The OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F of this ADM, includes important information for the custodial parent/caretaker including the opportunity to claim good cause.

For a recipient (with an open child care case on May 14, 2004) who, in response to the OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F, applies for child support services through the CSEU or demonstrates that he or she is actively pursuing child support privately, the district will authorize the child care subsidy case for the normal six-month or twelve-month recertification period.

For a recipient who, in response to the OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F, indicates on the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim, Attachment G, that he or she is making a good cause claim will be recertified for three months. The recipient must send corroborative evidence to support the good cause claim within 20 days from the day the good cause claim was made unless given an extension. The district must notify the recipient of the good cause determination using the OCFS/LDSS-7012, Notice of Good Cause Determination, Attachment H. If the determination is that good cause does not exist or cannot be established, the custodial parent/caretaker must be notified of the option to demonstrate he or she is actively pursuing support by providing necessary documentation to the district within ten days of the notice of good cause determination. If no such documentation is provided, the child care recipient must be sent an OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits.

A recipient who, in response to the OCFS/LDSS-7013, Child Support Requirements Notification Letter, Attachment F, does not apply for child support services through the CSEU, cannot demonstrate that he or she is actively pursuing support privately and has not claimed good cause, will, if otherwise eligible, be recertified for three months provided that he or she indicates on the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim, Attachment G, that he or she will actively pursue child support. The recipient must demonstrate by the end of the three-month period that he or she is

actively pursuing child support. If the recipient fails to demonstrate that he or she is actively pursuing child support, the child care recipient must be sent an OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits.

### *d) Establishing and Modifying Child Support Orders*

Child care workers should be aware of the following when guiding custodial parents/caretakers in actively pursuing child support orders with a provision for child care expenses.

*Child Care and Child Support Orders*

Child support orders are determined under the State's child support guidelines known as the Child Support Standards Act or "CSSA". The CSSA is codified in Section 413 of the Family Court Act (FCA), which governs actions in Family Court, and in Section 240 of the Domestic Relations Law (DRL), which governs actions in the Supreme Court. Seeking child care in the order of support is applicable to both establishing orders of support and modifying orders of support. Under the CSSA, there are circumstances where the court must order an amount to be paid for child care expenses and there are circumstances where the court has discretion to order an amount to be paid for child care expenses. The reasonable child care expenses will generally be prorated between the parties in accordance with the parties' relative incomes. This section provides a general discussion of the rules governing application of the child support guidelines.

***Child care provisions should be sought and ordered by the court:***

When the custodial parent/caretaker is working; receiving elementary, secondary or higher education; or participating in vocational training that the court determines will lead to employment, and incurs child care expenses as a result of the above, the court must order reasonable child care expenses. The reasonable child care expenses will generally be prorated between the parties in accordance with the relative incomes of the parties.

***Child care provisions should also be sought and may be ordered:***

When the custodial parent/caretaker is seeking work and incurs child care expenses as a result thereof, the court may determine reasonable child care expenses and apportion the expenses between the parties.

**There are exceptions to when a child care worker should require the custodial parent/caretaker to seek a modification to obtain a child care provision in the parent/caretaker's existing order of child support. If any of the following applies, the child care worker should NOT direct the custodial parent/caretaker to seek a modification.**

***Modification of a child support order should NOT be sought if:***

1. The custodial parent/caretaker is receiving TA; or
2. The child care worker is aware that the non-custodial parent's income is at or below the self support reserve, which is 135% of the federal poverty level. For 2005, this amount is $12,920. It is updated annually and is available from the OTDA website. Thus, in cases where it is clear that the non-custodial parent's income is at or below the self-support reserve and he or she does not have the ability to earn more income, the custodial parent/caretaker should not pursue a modification of an order of child support for the purposes of adding a provision for child care expenses; or

3. When the order of child support was entered or last modified, child care expenses existed and the court did not provide for child care expenses and there has been no substantial change in the parties' circumstances since the order of support was entered or last modified which would justify a modification (e.g. the obligor's income has not increased or the child's need for child care has not changed since the entry of the last order); or
4. The circumstances of the non-custodial parent indicate that the court is unlikely to modify the order due to the limited resources of the non-custodial parent. Such situations should be assessed on a case-by-case basis and may include but are not limited to: incarceration of the non-custodial parent or the non-custodial parent is disabled or unemployed; or
5. The custodial parent/caretaker needs child care for an activity other than employment, educational or vocational training or seeking employment; or
6. The order addresses only the family share and not the total child care expenses.

Note: When the custodial parent is *seeking employment* and incurs child care expenses as a result thereof, the court *may* order reasonable child care expenses. While child care expenses are not mandated in this case, the district can request the non-TA custodial parent to pursue a modification of an order that does not address child care expenses. However, the court may not grant the request for a modification in these cases, depending on the circumstances, because child care expenses are not mandated under these circumstances.

*Orders Stated in Terms of a Percentage of Child Care Expenses*

A custodial parent/caretaker will not be asked to pursue modification of an order that does not contain a sum certain (i.e. exact dollar) amount for the child care expenses. Where child care costs fluctuate, the custodial parent/caretaker must report any adjustments needed to their child support to the non-custodial parent. In cases where the custodial parent/caretaker has applied for child support services, the CSEU may be consulted if the custodial parent/caretaker is unable to collect the adjustments from the non-custodial parent. If the non-custodial parent is not compliant, it may become necessary to enforce the amounts not paid by petitioning the court.

### *e) Custodial Parent/Caretaker Who Seeks a Reduction in Child Support*

A custodial parent/caretaker who obtains a reduction in the amount of a child support order for the purpose of qualifying for, or increasing the amount of, a child care subsidy will not be considered to be actively pursuing child support and will, therefore, be ineligible for a child care subsidy.

### *f) Exchange of Information Between Child Care and Child Support Units*

The district is responsible for determining the mechanism for exchange of information between the child care unit and CSEU. The district must establish procedures to obtain information from the custodial parent/caretaker to document that the custodial parent/caretaker is actively pursuing child support. The first step in establishing that the custodial parent/caretaker is actively pursuing support is documentation provided by the custodial parent/caretaker verifying that the custodial parent/caretaker has submitted a signed application for CSEU services or has an appointment with the CSEU. If the custodial parent/caretaker is unable to provide the documentation, the child care worker may request verification

from the CSEU that an application for child support services has been submitted and/or an appointment has been scheduled.

In applying for child care services, a custodial parent/caretaker signs either the LDSS-2921-Application or a State approved local equivalent. These forms contain the following consent language regarding information needed to determine eligibility:

*"I understand that by signing this application form, I agree to any investigation made by the Department of Social Services to verify or confirm the information I have given or any other investigation made by them in connection with my request for assistance."*

No additional consent for release of information from the CSEU or the client's attorney (if pursuing child support privately) is needed.

### g) Continued Verification of Active Pursuit of Child Support

The child care worker must verify that the custodial parent/caretaker is continuing to actively participate in child support activities to obtain child support either through the CSEU or privately; already has a child support order and is actively participating (as required by the CSEU or privately) to enforce the order; or has a good cause exception. The custodial parent/caretaker must provide documentation to verify that he or she continues to actively pursue child support. The custodial parent/caretaker must verify where applicable and appropriate that:

- if applying for child support services through the CSEU, the custodial parent/caretaker has submitted the DSS-2521 as required by the district;
- the custodial parent/caretaker has submitted himself or herself and the child(ren) for genetic testing when required to establish paternity;
- the custodial parent/caretaker has filed a petition with family court to obtain an order of child support;
- the custodial parent/caretaker has obtained a court date;
- the custodial parent/caretaker has attended the court appearance as required or that the hearing was postponed for a legitimate reason;
- a child support order has been issued or modified by the court;
- child support payments are being made; and
- an enforcement petition has been filed, if required.

### h) Calculating Need and Child Care Benefit Amounts for Low Income Families

With the exception of any child care expenses ordered to be paid by the non-custodial parent to a low income custodial parent/caretaker, child support is treated as income when determining child care eligibility for the low income (i.e. non-TA) custodial parent/caretaker. In a *low income child only* case, the child support is considered income to the child.

The amount the non-custodial parent is required to pay for child care expenses as part of the child support order reduces the low income custodial parent/caretaker's need for child care. The child care benefit for the low income custodial parent/caretaker is determined by taking the full amount charged by

the child care provider, up to the market rate, and subtracting the non-custodial parent's court-ordered amount of the child care expenses. The child care benefit is further reduced by any family share required of the low income custodial parent/caretaker.

### *i) Support Orders That Address Only Family Share Rather Than Child Care Costs*

The amount of child care expenses in the child support order *should be* the full cost of child care. However, districts must follow the terms specified in the court order. In some cases, the court order fails to address the full child care expenses and instead looks only at the custodial parent's family share of the subsidy rather than the full child care cost. In these cases, the child support order either specifies an exact dollar amount or refers to the custodial parent's family share of "out of pocket expenses" rather than the full child care expenses. The district must follow the court order as written even if it fails to address the full child care costs.

### *j) Fluctuating Child Support Income and Lump Sum Child Support Payments*

18 NYCRR 404.5(b)(3) requires that if income fluctuates significantly, the average monthly amount used for determining financial eligibility for child care subsidy must be computed based on income received during a period of not less than three nor more than six months. Child support income received on an irregular basis in an amount that varies significantly, during the three to six month period the district chooses, from the amount in the child support order will be treated as fluctuating income. However, the amount of lump sum or other payments received for child support arrears is not counted as income for the purpose of determining eligibility of the custodial parent/caretaker for child care benefits.

### *k) Increasing Child Care Benefits When Child Support Payments Are Delinquent*

If child support payments are delinquent, the applicant or recipient must take appropriate action to enforce the child support order. So long as appropriate attempts are being made to enforce the child support order, the district must recalculate the low income custodial parent/caretaker's income excluding the amount of the delinquent child support.

Districts must determine when to make an adjustment to the child care benefit amount when child support payments are past due. In most cases, no adjustment to the child care benefit should occur until the support is at least 30 days past due. However, in situations where the child care arrangement is jeopardized due to the delay in payment, the district may make adjustments to the child care benefit amount *before* the payment is delinquent by 30 days. The adjustment to the child care benefit amount must retroactively cover the period of time support was not received.

The custodial parent/caretaker must be informed that he or she may be required to return some or all of payments for child support arrears to replace adjustments in child care benefits that the district made to cover the non-custodial parent's delinquent payments. In such cases, the district must add the following language to the OCFS/LDSS-4779, Approval of Your Application for Child Care Benefits, or OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits:

*"Your child care benefit is increased by $_____ based on your report of non-receipt of child support. You will be required to pay back the increases in child care benefits when you receive some or all of the back due child support. You must continue to actively pursue child support including enforcement of your child support order to remain eligible for child care benefits. Any change in your income, including receiving back due child support, must be reported to the* _____

*Department of Social Services immediately."*

### *l) Return of Child Care Benefits Adjusted Due to Delinquent Child Support Payments*

If child care benefits had been increased to cover delinquent child support payments due from the non-custodial parent, and the non-custodial parent begins paying the delinquent payments, the district must request the custodial parent/caretaker to return some or all of payments for child support arrears to the child care worker to replace the amount of increase in child care benefits that the custodial parent/caretaker received. The district must attempt to recover the increase in child care benefits in all cases in which the amount of increase equals or exceeds the cost of recovery.

When requesting a return of some or all of the lump sum or arrears payment, the district must notify the parent/caretaker in writing of the amount of overpayment that must be returned. Districts must issue the OCFS/LDSS-7009, Notice of Child Care Assistance Overpayment and Repayment Requirements, Attachment D, indicating the reason for the overpayment. The following information must be inserted in the space provided for the reason the overpayment occurred in *Section I* of the OCFS/LDSS-7009, Notice of Child Care Assistance Overpayment and Repayment Requirements:

> *"Your child care benefits were increased based on delinquent child support from your child's non-custodial parent. You now have received the delinquent child support. The increase to your child care benefits resulted in an overpayment as described below."*

Such notice must include the calculations used to determine the overpayment and repayment amount, the date that it must be repaid and the rights to an agency conference and fair hearing. Refer to *section III.E.13.d, Child Care Overpayments-Mechanisms of Recovery* of this ADM for more information on repayment plans. A copy of the original OCFS/LDSS-4779, Approval of Your Application for Child Care Benefits, or OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits, issued to the custodial parent/caretaker when child care benefits were increased (which included the notification language described in *section III.G.6.k, Increasing Child Care Benefits When Child Support Payments Are Delinquent* of this ADM) must be included with the request for repayment.

The amount of lump sum or other payment received for child support arrears is not counted as income for the purpose of determining eligibility of the custodial parent/caretaker for child care benefits. Once child support payments are received on a regular basis, the district must include child support as income and determine eligibility for child care benefits, the amount of the child care benefit and the family share prospectively. The OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits must be provided to the custodial parent/caretaker.

### *m) Denial or Discontinuation of Child Care Benefits*

If a status report from the custodial parent/caretaker or CSEU indicates a failure to actively pursue child support, the child care recipient must be sent an OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits, for failure to actively pursue child support without good cause.

In the case of a custodial parent/caretaker who is not actively pursuing child support and cannot demonstrate that a good cause exception exists, the district must deny or discontinue child care benefits. Districts must use the OCFS/LDSS-4780, Denial of Your Application for Child Care Benefits or the OCFS/LDSS-4782, Notice of Intent to Discontinue Child Care Benefits, as appropriate. These notices include information regarding the parent/caretaker's rights to appeal the district's decision. The denial or discontinuation notice must include the following statement: *"You did not actively pursue child*

*support for (name of child) and did not show that you have good cause for not actively pursuing child support as required by Title 18 of the New York State Codes, Rules and Regulations, Section 415.3."*

## 7. CHILD SUPPORT WORKER RESPONSIBILITIES

The child support worker has responsibilities only for the custodial parent/caretaker who applies for child support services through the CSEU. Upon receipt of the DSS-2521, the CSEU should provide any appropriate services to establish paternity or to establish, modify or enforce a child support order.

### a) ATTESTATION TO LACK OF INFORMATION

If, after the CSEU investigative interview, a custodial parent/caretaker disavows knowledge of information necessary to identify and locate the alleged non-custodial parent, the CSEU worker would close the child support case. The CSEU must either complete the LDSS-4281, Attestation to Lack of Information form, or refer the custodial parent/caretaker back to the child care worker or designee for completion of the LDSS-4281. A copy of the completed form must be given to the custodial parent/caretaker and will be kept in the child care record as documentation that the custodial parent/caretaker is excused from actively pursuing child support.

### b) PROVIDE INFORMATION TO THE CHILD CARE UNIT

The custodial parent/caretaker will be required to document to the child care worker that he or she is actively pursuing child support. However, in some circumstances, the custodial parent/caretaker may lack the documentation needed to verify that he or she is actively pursuing child support. In these cases, the custodial parent/caretaker or the child care worker may ask the CSEU worker to provide information via the Child Support Information Transmittal form (LDSS-2859) or a local equivalent.

### c) DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

For all *non-TA* child care cases, child support collected by the CSEU will be sent to the custodial parent/caretaker. In the event the non-TA custodial parent/caretaker is a *former TA recipient*, there may be assigned arrears that will be retained for reimbursement of assistance by the district in accordance with the child support distribution rules. Similarly, in *TA cases*, child support collections will be retained for reimbursement of assistance by the district in accordance with the child support distribution rules. The instruction provided in the Division of Child Support Enforcement (DCSE's) Dear Colleague Letter (DCL) dated January 19, 2000 for creating a non-public assistance child care support ledger in TA cases is cancelled. Child care ledgers in TA cases should be coded as 21CB or 22CB ledgers as appropriate.

For non-TA cases only, any *child care* expenses paid to the family as child support reduces the family's need for a child care subsidy. Because of the potential impact on the child care benefit amount, the child support worker may receive and must respond to a request for information from the child care worker regarding any child care expenses that have been court ordered and are being passed on from the CSEU to the family.

### *d) Notification of Child Support Case Closings*

There may be circumstances where a custodial parent had previously applied for child support services and his or her child support case was subsequently closed. The reason for the case closure may impact the custodial parent's requirement to actively pursue child support and the custodial parent's eligibility for child care services.

If the custodial parent/caretaker had *requested* his or her child support case be closed, the custodial parent/caretaker will be required to demonstrate that he or she is actively pursuing child support privately or the custodial parent/caretaker may reapply for child support services through the CSEU. If circumstances have changed, the custodial parent/caretaker may claim good cause.

There are other circumstances where a child support case may have been closed and the custodial parent/caretaker should be excused from actively pursuing child support for child care eligibility purposes. If a previous child support services case was closed due to any of the following reasons, the custodial parent/caretaker is excused from actively pursuing child support:

- the non-custodial parent is deceased and no further action, including a levy against the estate, can be taken;
- paternity cannot be established;
- the non-custodial parent's location is unknown and regular attempts have been made unsuccessfully to locate the non-custodial parent over a three year period;
- the non-custodial parent cannot pay support for the duration of the child's minority because the non-custodial parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential; or
- the non-custodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, has no reachable domestic income or assets and the State has been unable to establish reciprocity with such foreign country.

The child care worker will ask the custodial parent/caretaker to provide a copy of the child support case closure notice. However, there may be circumstances where the custodial parent/caretaker is unable to provide a copy of the notice. In these cases, the child care worker may contact the CSEU to confirm that the case was closed.

## *8. IMPLEMENTATION TIME FRAMES*

The new child support requirement for child care *applicants* was effective May 14, 2004. Districts were allowed to choose to implement the new child support requirement for *recipients* (with an open child care case on May 14, 2004) either effective May 15, 2004 or at next case action or recertification, whichever comes first. The district must have indicated which option it selected in its CSP/ICP. Districts were allowed to request a waiver to extend the implementation timeframe for no more than six months. However, the waiver will pertain only to implementation of this requirement for families in receipt of child care services as of May 14, 2004.

## H. METHOD OF MAKING PAYMENTS FOR CHILD CARE SERVICES

### 1. *NEW YORK STATE CHILD CARE BLOCK GRANT*

For child care services provided under the NYSCCBG program, payment may be paid by the following methods:

(1) by advance cash payments, cash reimbursements or vouchers to the child's custodial parent/caretaker for care provided by an eligible provider and supported by a bill signed by both the child's custodial parent/caretaker and the provider. However, a caregiver of informal child care or of legally-exempt group child care must be enrolled with the district before payment may be made for such services.

(2) by a purchase of services contract or letter of intent in accordance with 18 NYCRR 405.3 or by advance cash payments, cash reimbursements or vouchers to an eligible provider. However, a caregiver of informal child care or legally-exempt group child care must be enrolled with the district before payment may be made for such services. A district cannot require a provider to enter into a purchase of services contract or letter of intent as a condition of receiving payment under NYSCCBG.

A district must establish at least one method of payment by which payment for child care services arranged by the child's custodial parent/caretaker can be made. A district has the option to vary such method on a case-by-case basis to reflect individual case circumstances. However, the district may not vary payment methods if this will result in a limitation on the custodial parent/caretaker's choice of provider. For example, a district that has a policy of paying the custodial parent/caretaker whenever he or she uses a legally-exempt family child care provider or a legally-exempt group child care provider can choose to pay some of these providers directly, if the custodial parent/caretaker has a history of not paying the provider or frequently switching providers. As another example, a district that has a policy of having the custodial parent/caretaker pay the family share to the provider may require the custodial parent/caretaker to pay the family share to the district, if the custodial parent/caretaker has a history of not paying providers. However, the district must treat equally situated families the same.

### 2. *TITLE XX*

For child care services provided under Title XX of the federal Social Security Act, or provided as child protective services or child preventive services funded other than under the NYSCCBG program, payment must be made by a purchase of service contract or letter of intent with a licensed or registered provider, or with a public school district operating a child care program which meets State and federal requirements.

## I. REIMBURSEMENT FOR CHILD CARE EXPENDITURES

### 1. *PAYMENT FOR CHILDREN'S ABSENCES*

This section of the ADM on payment for children's absences replaces 92 ADM-8, Child Care: Reimbursement for Payments for Children's Absences.

A district has the option to choose whether it wants to issue payments on behalf of children who are temporarily absent from child care. Reimbursement is available for any absence, regardless of the reason for the absence, unless limitations are specified in the approved CSP/ICP, or the number of absences exceeds the maximum allowed for routine circumstances.

Reimbursement for such payments is allowable subject to the following conditions.

### *a) Selection of Providers*

The district must specify in its approved CSP/ICP to which providers such payments will be made, in accordance with one of the options below:

- To only those child care providers with which the district has a contract or letter of intent; *or*
- To all eligible providers of subsidized child care services, except for legally-exempt family day care and legally-exempt in-home providers.

The provider rendering the child care services must be duly licensed or registered to provide child care services, or an enrolled provider of legally-exempt group care. Such providers include: licensed day care centers; registered small day care centers; registered family day care providers; licensed group family day care providers; registered school-age child care programs; public schools providing care to pre-school aged children in accordance with a contract entered into between a public school district and the social services district; and enrolled legally-exempt group providers.

In order to be paid for absences, the provider must require payment for absences from families who are not receiving a child care subsidy, as well as those who are receiving a subsidy. Additionally, the provider must be open and available to provide care on the day the child is absent.

The district must state as part of a contract or agreement or through written notice to the provider that payment is allowable in cases of temporary absences from child care.

### *b) Selection of Base Period for Determining Number of Absences*

A district must select either a three-month or six-month period as the basis on which it will maintain records and calculate the number of allowable absences. The base period must be identified in the district's CSP/ICP and approved by the Office.

A district must establish a three-month or six-month base period for use in determining maximum temporary absences based on either of the following:

- beginning on the date of a child's admission to child care and ending three or six months later depending on the period selected; or
- beginning on a fixed calendar date for all children entering child care and ending three or six months later depending on the period selected. If this basis is chosen, a child entering child care during a quarterly or semiannual cycle may, during that initial cycle, receive a prorated number of days of absence beginning on the date of entry and ending on the last day of the quarterly or semiannual cycle. All temporary absences thereafter will be computed using the normal quarterly or semiannual cycle.

### *c) Maximum Number of Absences-Routine Circumstances*

The district must specify in its approved CSP/ICP the number of absences for which providers will be reimbursed. Except in cases of extenuating circumstances defined below, payment for temporary absences from child care are allowed for up to 12 days in any one calendar month; provided, further, that such absences may total no more than 12 days in any three-month period, if the district selects a three-month base period for determining maximum temporary absences; or 24 days in any six-month period, if the district selects a six-month base period for determining maximum temporary absences.

Claims for reimbursement for absences cannot be made for days of absence that occur after the date the child was withdrawn from the child care program. The district should prescribe guidelines for the reporting of a child's absence in its agreement with child day care providers.

### *d) Extenuating Circumstances*

A district may also choose to pay for absences that are in addition to routine absences when extenuating circumstances exist. If a district chooses to pay for absences in extenuating circumstances, it must specify such in its approved CSP/ICP and include any limitations that apply. Extenuating circumstances means a situation or occurrence verified by the district and noted in the case record in which a child is temporarily absent from child care for one or more of the following reasons:

- the district determines that the child is unable to attend child care because it is necessary for the child or the child's custodial parent/caretaker to appear in court or to keep other appointments related to the provision of preventive, foster care, adoption, child protective services, or other needs as set forth in the child's services plan;
- the child is ill, has a handicapping or other condition which requires medical care and/or treatment, or the child requires other medical care and/or treatment;
- the child's family is homeless, and the homelessness necessitates the child's absence from child care; or
- the child's custodial parent/caretaker is participating in an approved education or training program and the child's absences coincide with a temporary suspension of such program for purposes including, but not limited to, holidays, school conferences and snow days.

### *e) Maximum Number of Absences - Extenuating Circumstances*

Where it is determined that extenuating circumstances for absences exist, reimbursement is allowed for an additional three days above the maximum for routine absences, for a maximum of 15 days of absence in any one calendar month; provided that all absences may total no more than 20 days in any three-month period, if the district selects a three-month base period for determining maximum temporary absences; or 40 days in any six-month period, if the district selects a six-month base period for determining maximum temporary absences.

### f) Chart Summarizing Maximum Number of Absences Allowed by Regulation

The chart below summarizes the maximum number of reimbursable days of absence allowed for each period, according to regulation.

| | | Type of Absence | | |
|---|---|---|---|---|
| | | **Routine** (Maximum number of days) | **Additional Absences Due to Extenuating Circumstances** (Maximum number of days) | **Total** (Maximum number of days) |
| **Period** | **1 Month** | 12 | 3 | **15** |
| | **Base Period of 3 Months** | 12 | 8 | **20** |
| | **Base Period of 6 Months** | 24 | 16 | **40** |

### g) Absences in Excess of Limits for Extenuating Circumstances

A district that wishes to claim reimbursement for temporary absences in excess of the limits for extenuating circumstances must submit a written request to the Office for approval. Such requests must be client-specific and must indicate the number of additional absences, the reason for the additional absences and justification for reimbursement. A copy of the written Office approval for reimbursement of child absence in excess of the limits for cases with extenuating circumstances must be maintained as part of the case record.

### h) Child Absent from Care, But Receiving Care from Another Provider

Reimbursement is not available for a day a child is absent from care if the provider ordinarily charges the custodial parent/caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives subsidized child care from a different provider on the same day.

## 2. PROGRAM CLOSURES-LICENSED, REGISTERED OR LEGALLY-EXEMPT GROUP PROGRAMS

A district has the option to choose whether it wants to issue payments on behalf of children when a child care program is closed due to specified circumstances. Reimbursement for payments to licensed, registered or legally-exempt group programs during program closures is allowable subject to the following conditions:

### a) Selection of Providers

The district must identify, in its approved CSP/ICP, the type of providers that are eligible for payment for program closures. The district may choose to make such payments either to those child care providers with which the district has a contract or letter of intent or to all eligible providers of subsidized

child care services with the exception of legally-exempt family day care and legally-exempt in-home providers.

### *b) Reasons for Program Closure*

The district must identify in its approved CSP/ICP the specific holidays and/or circumstances for which it will make payments for program closures. A program closure is allowable for reimbursement if it is due to a State, federal or nationally recognized holiday or due to extenuating circumstances beyond the provider's control including but not limited to:

- natural disaster;
- severe weather; or
- other emergency closings that are due to circumstances other than a substantiated regulatory violation.

Reimbursement is available only for children in receipt of a child care subsidy who would otherwise be present at the child care program. Reimbursement is not available for a day the program is closed if the provider ordinarily charges the custodial parent/caretaker on a daily or part-time basis and the child for whom reimbursement is requested is otherwise in need of and receives subsidized child care services from a different provider on the same day.

The maximum number of days for which reimbursement is allowable due to program closure is five per year.

The district must maintain a record of the payments made under this provision for each provider in order to receive reimbursement.

## *3. REGISTRATION FEES AND DEPOSITS*

Federal and State reimbursement is available for payment of a registration fee and for deposits so long as the provider requires payment of such expenses of private-paying families. The provider rendering the child care services must be duly licensed or registered to provide child care services, or an enrolled provider of legally-exempt group child care. These costs may be claimed as program costs.

## *4. MARKET RATES*

Market rates are updated biennially. The most recent went into effect on October 1, 2003. They may be viewed at the Office's Internet site: http://www.ocfs.state.ny.us/main. For a comprehensive discussion of maximum reimbursement for child care subsidy expenditures under the NYSCCBG and Title XX Social Services Block Grant and how to apply the market rates, please refer to 04 OCFS LCM-07.

## *5. SPECIAL NEEDS PAYMENTS TO LEGALLY-EXEMPT PROVIDERS*

In order to assist children with special needs, districts are no longer required, as per 91 ADM-34, to request approval from the Office to apply the special needs market rate to legally-exempt providers funded under the NYSCCBG subsidy program. All the other requirements of 91 ADM-34 still apply,

with the exception of the amount of the special needs market rate, which is set forth in 04 OCFS LCM-07.

### 6. *PAYMENTS FOR TRANSPORTATION EXPENSES*

Child care providers that also furnish transportation services have the option to include this expense in their rates or to create a separate charge for these services. If these services are included in the rate, it is reimbursable as long as their rate is within the market rate. If the rate exceeds market rate, the amount in excess of market rate is non-reimbursable. A district may choose to cover theses excess costs at local cost or may require the custodial parent/caretaker to pay this excess amount.

If a provider charges transportation expenses as a separate charge to all families including private payers, a district is permitted to make payments for this extra fee as a program cost provided it is indicated in its approved CSP/ICP.

The time spent by the custodial parent/caretaker transporting a child to the child care program is not to be counted as time in which the child is in care.

## J. REIMBURSEMENT FOR CLAIMS

### 1. *MAINTENANCE OF EFFORT - NYSCCBG*

In order to access funding under the NYSCCBG, each district must maintain the amount of local funds spent for child care assistance under the NYSCCBG at a level equal to or greater than the amount the district spent for child care assistance during federal fiscal year 1995 under Title IV-A of the federal Social Security Act, the federal Child Care and Development Block Grant program, and the State Low Income Child Care program. Each district's claims submitted under the NYSCCBG will be processed in a manner that maximizes the availability of federal funds and ensures that the district meets its Maintenance of Effort (MOE) requirement in each applicable federal fiscal year.

Each district must meet its MOE in cash on a federal fiscal year basis, October through September. If the district is not meeting its MOE, reimbursement of claims for expenditures under the NYSCCBG will be adjusted so that the MOE is being met.

The MOE level for districts are issued along with the district allocation of NYSCCBG funds, in a separate Local Commissioners Memorandum (LCM) after the passage of the State Budget each year.

### 2. *REIMBURSEMENT LEVELS*

#### *a) NYSCCBG*

Claims for expenditures for child care services provided under NYSCCBG are eligible for the following levels of State and federal reimbursement up to the district's NYSCCBG allocation:

(1) Reimbursement is provided for 75% of allowable costs for families on TA.

(2) Reimbursement for all other eligible families is available for 100% of allowable costs,

provided that the district's maintenance of effort is being met.

(3) Allowable program costs include the following costs of providing child care services:

(a) eligibility determinations and re-determinations;

(b) participation in adjudicatory and judicial hearings;

(c) child care placements including transportation to such placements;

(d) inspection, review and supervision of child care placements including monitoring compliance with any additional local child care requirements imposed pursuant to 18 NYCRR section 415.4(f);

(e) training of district staff; and

(f) the establishment of computerized child care information systems.

(4) A district must expend its allocation from the NYSCCBG in a manner that provides for equitable access to child care services funds to eligible families.

(5) A district may spend no more than five percent of its annual NYSCCBG allocation for administrative activities. The term "administrative activities" does not include the costs of providing child care services set forth under "program costs" above. Administrative activities include, but are not limited to the following:

(a) providing local officials and the public with information about the program;

(b) conducting public hearings;

(c) monitoring program activities for compliance with program requirements;

(d) maintaining substantiated complaint files;

(e) coordinating the resolution of audit and monitoring findings;

(f) evaluating program results;

(g) managing or supervising persons with responsibilities set forth in paragraphs (a) through (f) of this paragraph;

(h) travel costs incurred for official business in carrying out the program; and

(i) other costs for goods and services required for the administration of the program including rental or purchase of equipment, utilities, and office supplies.

### *b) Title XX Social Services Block Grant*

Federal reimbursement for child care services provided under Title XX will be available for 100% of allowable costs up to the district's annual Title XX Social Services Block Grant allocation.

## IV. Systems Instructions

Procedures for the authorization of payment for child care services in the Welfare Management System (WMS) are as follows:

For child care payments for eligible families applying for or receiving temporary assistance, a district can continue to use the DSS-3209, IM/WMS Authorization. A district may, at its option, utilize the

DSS-2970 WMS/Services Authorization to authorize payment for child care for temporary assistance families. Service Type Suffix Code (Data Element #23021) value "S" designates child care services funded under NYSCCBG for temporary assistance applicants/recipients and reimbursed at 75% federal and State share up to the district's allocation ceiling.

A district has the option to authorize payments for child care for NYSCCBG eligible families not in receipt of temporary assistance on the DSS-3209 for Food Stamps and Medical Assistance only cases. These payments are reimbursed at 100% federal and State share up to the district's allocation ceiling.

For all other eligible families, a district must authorize payment in WMS/Services by using Service Type Suffix Code value "R" on the DSS-2970 WMS/Services Authorization that designates child care services funded under NYSCCBG for non-temporary assistance families and reimbursed at 100% federal and State share up to the district's allocation ceiling.

In circumstances of an adult only temporary assistance case in which the children are not included in the temporary assistance filing unit, child care payment is authorized as a temporary assistance family and reimbursed at 75% federal and State share up to the district’s allocation ceiling. For cases in which children are in receipt of temporary assistance but the caretaker is not included in the temporary assistance filing unit, child care is authorized in WMS Services and reimbursed at 100% federal and State share up to the district's allocation ceiling.

WMS/Services continues to support monitoring the issuance and return of child care certificates. Instructions for the child care certificate are included in 92 LCM-138 and in the Benefits Issuance Control System (BICS) Operations Manual, page A-82, BICS Production Request 32, in the addition dated April 1, 1993. Information is also provided in the BICS Services Payment Processing Manual, II. Authorizations, E., Self Selected Day Care Certificates, pages II 25-27.

## V. Claiming Instructions

NYSCCBG expenditures for child care subsidies for families receiving temporary assistance are claimed on Schedule H Non-Title XX Services for Recipients (LDSS-4283), line 2 (Day Care Services for Children), column 13 (Day Care Block Grant 75%). NYSCCBG program expenditures for child care subsidies for all other eligible families and for allowable program costs are claimed on the Schedule H, line 2, column 12 (Day Care Block Grant 100%). Refer to the Fiscal Reference Manual, Volume 2, and Chapter 3 for detailed instructions for completing the Schedule H.

NYSCCBG child counts and expenditures also must be reported on the Schedule G-2 Summary of Payments for Day Care (LDSS-2109EL). Expenditures made under the services types allowed must be reported on the Schedule G-2, via the Automated Claiming System. The BICS Schedule G-2 report provides the information needed to file the report. Refer to the Fiscal Reference Manual, Volume 2, and Chapter 3 for Schedule G-2 instructions.

Administrative expenditures for the NYSCCBG are claimed in accordance with the services Random Moment Survey (RMS) as Child Care Block Grant costs on line 6, section 1 (associated A-87 costs are claimed on line 4, section 2) of the Schedule D-2, Allocation for Claiming of General Services Administration Expenditures (LDSS-2347B). Instructions for completing the Schedule D-2 are contained in Chapter 9 of Volume 3 of the Fiscal Reference Manual County Cost Allocation Plan for districts outside of New York City. For New York City, the instructions are contained in Chapter 9 of Volume 4 of the Fiscal Reference Manual.

Claiming instructions for district administrative expenditures related to the training of employees which are claimed on the Schedule D-6 "Reimbursement For Training" (LDSS-2347-C) for the NYSCCBG program are covered in Chapter 13 of Volume 3 of the Fiscal Reference Manual for districts outside of New York City. New York City would refer to Volume 4 of the Fiscal Reference Manual.

## VI. Other

### A. WAIVERS

With the exception of the local child care market rates, a district may request a waiver of any non-statutory child care regulation. The waiver must be described in the district's CSP/ICP and must be approved by the Office prior to its implementation.

### B. EFFECTIVE DATE

The regulations were effective on May 15, 2004. Implementation was effective immediately, except for those districts which have requested in their CSP/ICP and received Office approval to implement the new child support provisions (with regard to existing child care cases only) and/or changes in the child care services unit (CCSU) at next case action or recertification, whichever comes first. The new legally-exempt provider certifications must be implemented immediately for providers enrolling on or after May 15, 2004. Districts must notify legally-exempt providers that were enrolled as of May 14, 2004 of the need to sign and return the new attestations no later than the next case action or recertification.

If a district has requested and received approval from the Office for a waiver to delay implementation of any other non-statutory provision, the effective date will be based on the approved waiver.

Larry G. Brown s/s

---

Larry G. Brown
Deputy Commissioner
Division of Development & Prevention Services

**ATTACHMENT A**

GUIDELINES FOR REVIEW OF ENROLLMENT FORMS FOR PROVIDER OF LEGALLY-EXEMPT CARE: History of Article 10 Removal; Termination of Parental Rights; and Denial, Revocation and/or Suspension of a Child Day Care License or Registration

# I. ENROLLMENT REQUIREMENTS

The previous enrollment requirements specified in 01 OCFS LCM 11 remain in effect and new health and safety assessment requirements have been added to the regulations (18 NYCRR, part 415.4 (f) (7) (iii) and (iv)). In order to be enrolled by a district to provide child care services under the NYS Child Care Block Grant Program, a provider of informal child care or a provider of legally-exempt group child care which is not required to be operated under the auspices of another Federal, State or local government agency must attest and certify in writing regarding the following health and safety categories:

- ❑ Whether the provider has ever had a child(ren) removed from his or her care by court order under Article 10 of the Family Court Act (FCA); and/or
- ❑ Whether the provider has ever had his or her parental rights terminated, and/or
- ❑ Whether the provider has ever been denied a license or registration to operate a school-age child care program, day care center, family day care home or group family day care home, or had such a license or registration suspended or revoked.

For any provider who has a history of the above health and safety concerns, the district must assess, in accordance with these guidelines issued by OCFS, whether the enrollment of such provider poses an unreasonable risk to the health, safety or welfare of the children in the provider's care.

## A. REVISED ENROLLMENT FORMS

Changes have been made to the enrollment forms to include the new certifications. The forms that have been modified are:

- OCFS/LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care, and
- OCFS/LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care.

New sections have been added to each of the enrollment forms to address the provider's history of Article 10 removals, termination of parental rights (TPR) and denial, revocation and/or suspension of a license or registration to operate a day care program. The provider must sign a certification for category.

# II. THE NEW HEALTH AND SAFETY CATEGORIES

## A. COMPLETION OF OCFS/LDSS-4699, THE ENROLLMENT FORM FOR A PROVIDER OF LEGALLY-EXEMPT FAMILY CHILD CARE AND LEGALLY-EXEMPT IN-HOME CHILD CARE

### 1. History of Court-Ordered Article 10 Removal of a Child (Section V)

*Background*

Article 10 refers to a section in the Family Court Act that addresses abuse and neglect (child protective) proceedings. The removal of a child under FCA Article 10 is a reversible action intended to protect a child from imminent danger (immediate danger of serious harm) or imminent risk to the child's life or health. Before removing a child to foster care, a judge must consider whether the issuance of a temporary order of protection would eliminate the need for the removal.

A removal may occur without a fact-finding hearing and, in itself, a removal does not establish or prove wrongdoing by the parent/caretaker. A judicial finding, or adjudication, establishes the culpability of the parent/caretaker, in that the abuse or neglect was satisfactorily proven, admitted or consented to in family court. The definitions of abused child and neglected child are found in the Family Court Act, Section 1012.

The reasons for the length of placement may be linked to the resolution of the underlying cause of the removal. Shorter placements may occur when the parent/caretaker's underlying issues are more easily resolved or the extended family has become a placement resource for the child. Because child welfare staff must work towards a goal of reunification of children in foster care with their families as soon as the children can be safely returned home, a long foster care placement may be indicative of more severe factors underlying the removal. A placement lasting 15 months or more has additional significance because when a child has been in foster care for 15 of the preceding 22 months the district may be required to file a petition to terminate parental rights.

a) Provider History

Question 1: The provider must indicate whether he or she has ever had a child removed by court order in an Article 10 proceeding. If the provider has had a child removed by court order in an Article 10 proceeding, the provider must check the second response and must answer questions 2 through 5. These questions apply to *any* child removed from the person's care under Article 10. The provider may or may not be related to such child, but must have been considered "legally responsible" for the child's care at the time. For example, a woman may have been caring for her boyfriend's son and had the child protectively removed from her care. Another example is a child who was living with a friend of her mother's while the mother was away for 2 months and the child was removed from the care of the mother's friend and placed in foster care under court order in an Article 10 proceeding.

Question 2: If the provider has had a child removed, he/she must provide the date that the removal occurred. If the provider has had multiple removals, then all dates should be recorded.

Question 3: The provider must indicate whether, as a result of the Article 10 proceeding, there were judicial findings of abuse or neglect, and if so, what were the specific findings, such as: neglect, abuse or repeated abuse. If there was not a finding of abuse or neglect, the provider must indicate the reason why. An Article 10 removal *not accompanied by a judicial finding* of neglect or abuse may be an indicator that extenuating circumstances exist in the case.

Question 4: The provider must indicate the length of time that the child was in foster care and/or another out-of-home placement under Article 10. If the child was initially placed under Article 10, but then *remained out of the home under another type of family court proceeding*, the provider must give an explanation of why this occurred in his or her written statement (see question 5). Legal mechanisms for foster care placement, other than Article 10, include:

- Voluntary Placement under Social Services Law (SSL) 384-a. The care and custody of a child may be transferred to the district by a written instrument/agreement.
- FCA Article 7 allows for the placement of a Person in Need of Supervision (PINS).
- FCA Article 3 allows for the placement of a Juvenile Delinquent (JD).

Question 5: Any provider who indicates a history that includes an Article 10 removal must provide true and accurate information to the district and the child's parent/caretaker regarding the reasons underlying the child's removal. The provider must prepare and submit to the district and the child's

parent/caretaker a written summary that contains enough detail for the district to ascertain the sequence of events, the severity and the underlying reasons for the events. Underlying reasons are likely to include one or more of the following:

- Alcohol misuse/abuse, drug misuse/abuse, or
- Mental health issues, developmental or cognitive disabilities, or
- Sexual offender issues, or
- Anger management problems; batterer's issues; domestic violence issues, or
- Lack of parenting/ child care skills; lack of understanding of normal child development, or
- Insufficient coping strategies for managing stress; inadequate support system

The narrative should include a certification that all statements made are true and accurate.

b) Provider Certification

The provider must certify that the statements made are true and accurate.

## 2. History of Termination of Parental Rights (Section VI)

*Background*

When it is clear that the natural parent of a child in foster care cannot or will not provide a safe family home for the child and when continued foster care is not an appropriate plan for the child, the child welfare agency may initiate a proceeding to terminate the parental rights under SSL 384-b and FCA Article 6. The purpose of such an action is to permanently terminate the parent's custodial rights and guardianship, free the child for adoption, and find a permanent alternative home for the child. Grounds for termination of parental rights include: abandonment, permanent neglect, mental illness/mental retardation of the parent, and severe or repeated abuse.

a) Provider History

Question 1: The provider who has had his/her parental rights terminated must check the second response, and then complete questions 2 and 3. Any provider who has not had his or her parental rights terminated should go on to part B.

Question 2: This question requests the legal basis for termination of the provider's parental rights. Information regarding the basis for the termination of parental rights may be found in the court petition and dispositional order or in child welfare service plans, a copy of which the provider should have received.

Question 3: Any provider who has a history of a termination of parental rights must provide true and accurate information to the district and the child's parent/caretaker regarding the reasons underlying the termination of parental rights. The provider must prepare and submit to the district and the child's parent/caretaker a written summary which contains enough detail for the district to ascertain the sequence of events leading to the termination of parental rights and which identifies the underlying causes.

The narrative should include a certification that all statements made are true and accurate.

b) Certification

The provider must sign and date this certification that all the statements on the form are true and accurate.

## 3. History of Denial, Revocation or Suspension of a License or Registration to Operate a Child Day Care Program (Section VII)

*Background*

Denial, revocation and/or suspension of a license to operate a child day care program are legal actions, known as enforcement actions, which are initiated by OCFS licensors when a child care provider is out of compliance with the regulations that are put in place to protect the health and safety of children in child day care. Enforcement action may force a provider to comply with OCFS regulations or may remove the provider's legal authority to operate as a licensed or registered day care provider. However, OCFS may not interrupt the provider's operation until all due process rights have been exhausted, except in the event of imminent danger immediate danger of serious harm to the children in care. When imminent danger is found, a suspension, an order to immediately cease provision of child care services, may be issued.

a) Provider History

Question 1: A provider who has had a denial of an application or renewal of a license or registration to operate a day care program must check the first or second response, as appropriate. If a provider indicates that he or she is appealing a decision, then the process may not yet be finalized, and the district must take this under consideration.

Question 2: A provider who has had a license or registration revoked or suspended must check the second option, and then complete questions 3 and 4.

Question 3: The information given by the provider will help the district retrieve the provider's record from the Child Care Facilities System (CCFS) and obtain information from the appropriate regional office that conducted the enforcement and supervised the provider's program.

Question 4: Any provider who indicates a history including a denial, revocation or suspension of a license or registration to operate a child day care program must provide true and accurate information to the district and to the child's parent/caretaker regarding the reasons for the denial, revocation and/or suspension. The provider must prepare and submit to the district and to the parent/caretaker, a written summary that contains enough detail for the district to ascertain the sequence and severity of the events and the underlying reasons. Underlying reasons may include some of those found in Article 10 and TPR cases or other factors more specifically pertaining to child care programs, such as:

- Lack of child care skills; lack of understanding of normal child development, or
- Unsafe day care site, or
- Inadequate staffing.

The narrative must include a certification that all statements are true and accurate

b) Certification

The provider must sign and date this certification that all the statements on the form are true and accurate.

### 4. Parent and Provider Certifications, Section VIII

The new certifications for the provider and the parent are summarized below.

a) Provider Certifications

The provider agrees to allow representatives of the district and the State of New York access to the child care program and understands that refusal to do so may result in the provider becoming ineligible and losing enrollment status.

The provider is informed and acknowledges that he or she may not be eligible to provide care if he or she has a history of an Article 10 removal; termination of parental rights (TPR); or denial, revocation and/or suspension of a license or registration to operate a day care program. The provider is also informed that he or she may request the district review any extenuating circumstances to determine if an exception could be made to allow the provider to provide subsidized care.

b) Parent Certification

The parent is informed of and acknowledges that the district may not be able to pay a provider who has a history of an Article 10 removal, termination of parental rights (TPR) or denial, revocation and/or suspension of a license or registration to operate a day care program. The parent is also informed that he or she may request the district review any extenuating circumstances to determine if an exception could be made to allow the provider to provide subsidized care.

## B. COMPLETION OF OCFS/LDSS-4700, THE ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT GROUP CHILD CARE

The changes in the OCFS/LDSS-4700 parallel those made in the OCFS/LDSS-4699, however, the section numbers vary. As with the Facilities Safety Checklist, completion of the three sections regarding the provider's history of Article 10 removal, TPR and denial, revocation or suspension of a day care license or registration *is not required* for the legally-exempt group providers who operate under the auspices of another Federal, State or local government agency:

- A nursery school, pre-kindergarten or day care program for children three years of age or older or a program for school-age children conducted during non-school hours, operated by a public school district that is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located on the same premises or campus where the elementary or secondary education is provided.
- A nursery school that is voluntarily registered with the NYS Education Department and operated in accordance with Part 125 of its regulations.
- A summer day camp operated in accordance with Subpart 7-2 of the State Sanitary Code.
- A day care center, family day care home or other child care program located on federal or tribal property and operated in compliance with applicable federal or tribal laws and regulations.

## C. FALSIFICATION OF INFORMATION

If a district has reason to believe a provider is falsifying information on the enrollment forms, the district must make a referral to its fraud investigation unit.

# III. EVALUATING PROVIDER HISTORY AND RISK

The district must use the information required by the enrollment form to determine whether to enroll a provider who has:

- had a child removed from his or her care by court order under Article 10 of the Family Court Act (FCA), or
- had his or her parental rights terminated, or
- had his or her license or registration to operate a child day care program denied, revoked or suspended.

Such a history, in nearly all cases, means that the provider has failed to meet the standards for the minimum degree of care of a child while the provider was legally responsible for the child's care, acting either as a child care provider, a parent or a parental substitute. Districts may wish to utilize their own child welfare specialists to assist child care workers in understanding the significance of a particular Article 10 removal or termination of parental rights determination and its implications regarding child caring capability. Districts may utilize the OCFS regional offices for clarification of the circumstances of and reasons underlying the denial, revocation or suspension of a license or registration to operate a day care program.

The district must review the case and if the provider has any of the risk factors that are listed for the high risk group, the provider must be assigned to that group. Assignment to the high risk group, results in a presumptive denial of enrollment, which may be overcome ONLY if the provider demonstrates to the district's satisfaction that enrollment will not jeopardize the health and safety or welfare of children in the provider's care. If the provider does not have any of the characteristics of the high risk group, then he or she should belong to the low risk group, and may be considered for enrollment.

## A. THE HIGH RISK GROUP

The high risk group includes any provider who has a history of:

- A removal of a child from his/her care by court order under an FCA Article 10 proceeding; or
- A termination of his /her parental rights; or
- A license or registration to operate a child day care program denied, revoked or suspended due to his/her own actions or inactions based on abuse or neglect, a child fatality due to negligence, chronic non-compliance with regulations, lack of supervision resulting in a serious injury to a child, or other serious violation; or
- A provider who has knowingly provided false information on enrollment forms.

### 1. Enrollment Decision

The enrollment decision is a presumptive denial. The initial district response to any enrollment application submitted by a provider in the high risk group is to deny enrollment of the provider and to notify the parent/caretaker of the decision. The provider and/or the parent/caretaker may request the district to reconsider its decision.

A high risk provider may be *reconsidered* for enrollment only when the provider demonstrates extenuating circumstances exist. Extenuating circumstances are those extraordinary circumstances, which occurred at the time of the original incidents or since the original incidents, which may

justify enrollment. The following three conditions must be met prior to reconsidering enrolling a provider who has been presumptively denied for enrollment:

- The provider and/or the parent/caretaker must make a written request asking that an exception to the presumption against enrollment be made; and
- The provider must make true, accurate and full disclosure, in writing, of the extenuating circumstances to the parent/caretaker and the district; and
- The parent/caretaker must persist in wanting to use the provider, after receiving full disclosure.

2. Steps for evaluating extenuating circumstances:

a) The district receives the written request for the exception to the denial of enrollment to be made.

b) The district may wish to confirm that the parent/caretaker has received and reviewed the provider's statement, and still wishes to use this provider to care for his/her child. If the parent/caretaker wishes to use the provider, then advise the provider to submit the explanation of extenuating circumstances.

c) The provider submits a written explanation and any proof of the extenuating circumstances, if these have not already been submitted. Extenuating circumstances may include unusual circumstances surrounding the original incident and/or factors which successfully resolve the underlying causes and tend to eliminate risk.

In Article 10 matters and TPR's, the provider's proof should include original paperwork from the family court and child welfare agency, including court petitions, court orders, court summaries/reports, correspondence, service plans, and progress reports. In licensing or registration matters, the proof may include correspondence with OCFS and hearing decisions.

d) The district reviews the explanation of extenuating circumstances and the proof. Districts must determine on a case-by-case basis whether the documentation is appropriate and sufficient. Extenuating circumstances occurring at the time of the original incidents may include things such as:

- An Article 10 removal from a parent/caretaker who was believed to be neglectful or abusive at the time of removal, but later the allegations were found to be unconfirmed. In this type of situation, you would expect to find that there is no adjudication of abuse or neglect against the individual and that the out-of-home placement is short in duration.

  For example, a provider states his child was removed from his care but he did not abuse or neglect the child. The provider states that the child was returned to his care within 2 weeks and there was no adjudication against him. The explanation given is that the judge ordered a removal of the child from the custodial father, based on the caseworker's testimony that the child disclosed she was sexually abused by "daddy". Upon further investigation, it became clear to the CPS caseworker that the abuse occurred while the child was living with her mother, that "daddy" was the child's stepfather, and that the custodial father had no involvement. The abuse petition filed against the father by child protective was withdrawn and the child was discharged from foster care to her father's care and custody.

  The father in this example might be able to show the following items as proof of his account: notification letters from Child Protective Services advising of the determination of

the hotline report; family court orders, petitions and court paperwork showing the petition was either withdrawn or dismissed; and/or child welfare service plans.

- In a TPR based on abandonment, it is possible that an estranged parent may not have known that an abandonment proceeding was being conducted, or even that his/her child was in foster care.

Extenuating circumstances occurring after the precipitating incidents include evidence of rehabilitation and successful resolution of underlying causes and other factors which minimize risk. These may include, but are not limited to:

- Successful participation in treatment or counseling (alcohol, drug, mental health, anger management and domestic violence, etc.), or
- Successful participation in parenting skills or child development classes, or
- Demonstration of strategies learned in treatment or class, or
- Development of an appropriate support system and use of effective strategies for coping with stress, or
- A significant period of time has elapsed since the incident and the provider has had significant maturational growth, or
- The provider has had personal achievements which demonstrate the development of relevant skills and knowledge, or
- The provider has not had additional incidents of Article 10 proceedings or termination of parental rights proceedings, or
- The provider has otherwise been rehabilitated.

e) The district must evaluate the severity of the original incident, the underlying causes, what has changed since the incident(s) to reduce risk to children in the provider's care and any extenuating circumstances. Truthfulness and completeness of disclosure from the provider must be considered.

Due to current regulatory constraints, the child care unit may not be able to receive corroboration (or contradiction) of the provider's account directly from a child welfare unit. However, the district should consult with its own child welfare specialists as to the adequacy of the statement and documentation submitted for a current or former child welfare case when the district is considering enrollment of a high risk provider.

For licensing or registration issues, the district may corroborate information given by the provider. District staff can access a facility report on CCFS that summarizes compliance violations within the past 24 months and notes any enforcement action taken in the past 5 years. Districts may contact the licensor named in CCFS for additional information. The licensor can confirm the underlying reasons for the enforcement actions.

f) The district addresses identified concerns with the parent/caretaker.

g) Decision: The district must determine whether an exception should be made to the presumption against enrollment, and notify the parent/caretaker and the provider of the decision. **The district must not enroll any provider unless the provider has satisfactorily demonstrated that enrollment will not jeopardize the health, safety or welfare of children in the provider's care.**

Failure of the provider to cooperate with the information sharing and evaluative process will result in a denial or termination of enrollment.

h) When the district enrolls any such provider, it must obtain a signed statement from the parent/caretaker stating that the parent/caretaker is aware of the provider's specific history of an Article 10 removal, TPR, and/or denial, revocation and/or suspension of a license or registration to operate a child day care program; has received the same written information submitted to the district; and knowingly chooses this provider to care for his or her children.

## B. LOW RISK GROUP

A provider is assigned to the low risk group only if the provider does not have any of the risk factors listed for the high risk group. Those providers belonging to the low risk group may include providers who have had a license or registration to operate a day care program denied, revoked or suspended and the lack of compliance was based on circumstances that the provider was attempting to resolve but was not able to adequately resolve in the time frame allowed and since the denial, revocation or suspension, the problem has been adequately resolved. For example, a family day care was closed down due to an unsafe water source. The provider's day care program had been using well water which became contaminated. To resolve the issue, the provider moved to a location that meets all regulatory requirements.

### 1. Enrollment Decision:

Providers in the low risk group may be considered for enrollment.

### 2. Action to be taken by the district:

The district must carefully evaluate the provider's history of the denial, revocation and/or suspension of a license or registration to operate a child day care program and should obtain corroboration of the provider's account prior to giving it credence.

When the district enrolls any such provider, it must obtain a signed statement from the parent/caretaker stating that the parent/caretaker is aware of the provider's specific history of an Article 10 removal, TPR, and/or denial, revocation and/or suspension of a license or registration to operate a child day care program; has received the same written information submitted to the district; and knowingly chooses this provider to care for his or her children.

DATE (*DISTRICT USE*) _____

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT FAMILY CHILD CARE AND LEGALLY-EXEMPT IN-HOME CHILD CARE

| | |
|---|---|
| Parent/Caretaker's Name: | Case Number: |
| Address: | |
| Telephone: | Social Security Number**(Not required, please see below)*: |
| Provider's Name: | Date Of Birth**: |
| Address Where Care Is Given: | Provider's Address (*If Different*): |
| Telephone: | Social Security Number: |

* The parent/caretaker may, but does not have to list his/her social security number. You cannot be required to disclose your social security number as a condition of eligibility for child care services. If provided, your social security number will be used to assist in identifying your child care file. It may also be used by federal, State and local agencies to prevent duplication of services and fraud, and for federal reporting.
** If the provider is less than 18 years old, the Employment of Minors Form must be completed.

## I. PROVIDER'S STATUS

*Provider: Check all statements and answers that apply:*

1. ☐ I provide care in the child's home *(Provider and parent/caretaker must also complete and submit the Agreement For Legally-Exempt In-Home Child Care.)*
2. ☐ I provide care in my own home or another person's home. *(Also check box A, B or C below, whichever applies.)*
   - A. ☐ I am either the grandparent, great-grandparent, great-great-grandparent, aunt/uncle, great aunt/great uncle, brother/ sister or first cousin of all the children in care; **OR**
   - B. ☐ I care for no more than 2 children (not counting my own children or any children older than 13 years); **OR**
   - C. ☐ I care for 3 or more children. However, I never have more than 2 children in care at the same time for more than three hours a day.
3. ☐ I provide care other than choices #1 or #2 above. *(Attach an explanation).*
4. ☐ I am on temporary assistance, medical assistance, or food stamps. My case # is: _____

**How much is the provider charging for each child?**

| | Child's Name | Date of Birth | Amount Charged (per hour/day/week) |
|---|---|---|---|
| **A)** | | | |
| **B)** | | | |
| **C)** | | | |

☐ I agree that the amount I am charging the parent/caretaker signing this form is NOT MORE THAN the amount I am charging for other children of the same age and similar care.

**Who will supply meals and snacks?** Meals and snacks may be supplied either by the parent/caretaker or by the provider. *Check the box that states what you have agreed to.* If you want information about how your child care program can get money to help pay for meals and snacks, call the Child and Adult Care Food Program at 1(800) 942-3858.

☐ The provider will supply snacks and meals.

☐ The parent/caretaker will supply snacks and meals.

☐ Other – Explain: _____

## II. HOME SAFETY CHECKLIST

*Provider and parent/caretaker complete this section together.*

### A. THE PROVIDER MEETS THESE REQUIREMENTS BEFORE CARING FOR CHILDREN:

| YES | NO | |
|---|---|---|
| ☐ | ☐ | The provider and all children have two separate & remote ways to leave the building in an emergency. |
| ☐ | ☐ | Rooms for children are well-heated, well-lighted and well-ventilated. |
| ☐ | ☐ | The home is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around the unsafe areas that keep children from getting to them. |
| ☐ | ☐ | If child care is provided above the first floor, there are barriers or locks on the windows so children can not fall out. |
| ☐ | ☐ | The water supply is safe. There are working toilets. There is hot and cold running water all the time. |
| ☐ | ☐ | The provider, all volunteers who are likely to have regular contact with the children and all employees are physically able to provide child care and are free of any communicable disease. Additionally, all persons living in the home (other than the child's own home) are also free of any communicable diseases. |
| ☐ | ☐ | The home is free of any dangerous or unsafe conditions that could hurt a child. This includes:<br>▪ Knives and other sharp objects are out of the reach of children.<br>▪ Small rugs, runners, and electrical cords are held in place so a child won't trip.<br>▪ Electrical cords do not run under furniture or rugs and are out of the reach of small children.<br>▪ Extension cords are not overloaded.<br>▪ Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place.<br>▪ Cords to window blinds and shades are out of the reach of children.<br>▪ Hot liquids are out of the reach of children.<br>▪ Small items that a child could choke on are out of the children's reach. |
| ☐ | ☐ | All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with children, where food is prepared, or otherwise be a danger to the children. All of these materials are stored safely away from the children. |
| ☐ | ☐ | Each child will receive meals and snacks according to what the parent/caretaker and the provider have agreed. |
| ☐ | ☐ | Milk, formula and any food that goes bad if left out will be kept refrigerated. |
| ☐ | ☐ | If the provider cares for infants, formula, breast milk and other food items for infants will not be heated in a microwave oven. |
| ☐ | ☐ | The provider will always allow the custodial parent/caretaker or caretaker to have access to his/her child in care, to the home while the child is in care, and to any written records concerning the child. |
| ☐ | ☐ | The provider will hold evacuation drills at least once a month with the children so they will know what to do in an emergency. |
| ☐ | ☐ | The provider has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |
| ☐ | ☐ | If a child in care is under 5 years old, protective caps, covers or permanently installed safety devices are used on all electrical outlets that the child could reach. |
| ☐ | ☐ | Paint and plaster are in good repair so that there is no danger of children putting paint or plaster chips in their mouths or of it getting into food. |
| ☐ | ☐ | There is at least one operating smoke detector on each floor of the home. The provider will check regularly to make sure all detectors work. |
| ☐ | ☐ | The home has a portable first aid kit that is easy to get to in an emergency and is kept in a clean container away from children. It is stocked to treat common childhood injuries and problems. The provider will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used. |
| ☐ | ☐ | The parent/caretaker has given the provider signed proof from a doctor or other health care provider that: the child has received all of the immunizations appropriate for the child's age; OR that one or more of the immunizations would harm the child's health; OR the child's parent/caretaker provides a statement saying that the child has not been immunized due to the parent/caretaker's religious beliefs. |
| ☐ | ☐ | Stairs, railings, porches and balconies are in good repair. |

### B. THE PROVIDER AGREES TO THE FOLLOWING CONDITIONS:

The provider WILL NEVER use corporal punishment or let others use corporal punishment while children are in care. Corporal punishment means doing things directly to a child's body to punish them such as: spanking; biting; shaking; slapping; twisting or squeezing; making the child do physical exercises beyond what is normal; forcing the child to stay still for long periods of time; making the child stay in positions that hurt the child or are bizarre; bathing the child in unusually hot or cold water; and forcing the child to eat or have in the child's mouth soap, foods, hot spices or foreign substances.

The provider WILL NEVER use or be under the influence of alcohol or drugs while children are in care and will make sure that children being cared for do not have contact with people using drugs or alcohol.

The provider WILL NOT smoke or allow smoking in indoor areas or other enclosed areas, such as cars or other vehicles, when children are present.

The provider WILL NEVER leave children alone or in the care of other people.

**By signing the home safety checklist, the parent/caretaker and provider agree that they have inspected the home and that all statements on the form are true and accurate.**

| PROVIDER NAME (Print): | PROVIDER SIGNATURE/DATE: |
|---|---|
| PARENT/CARETAKER NAME (Print) | PARENT/CARETAKER SIGNATURET/DATE: |

## III. CRIMINAL HISTORY CERTIFICATIONS

*To be completed by provider.*

I certify to the best of my knowledge and belief that **I** (*Choose one*):

- ☐ **have** been convicted of a crime in New York State or any other place.
- ☐ **have *not*** been convicted of a crime in New York State or any other place.

I certify to the best of my knowledge and belief that **any person helping me** to care for children (*Choose one*):

- ☐ **has** been convicted of a crime in New York State or any other place.
- ☐ **has *not*** been convicted of a crime in New York State or any other place.

If care is provided in a home other than the child's own home, I certify to the best of my knowledge and belief that **any person living in the home who is 18 years of age or older** *(Choose one):*

- ☐ **has** been convicted of a crime in New York State or any other place.
- ☐ **has *not*** been convicted of a crime in New York State or any other place.

I certify that I have asked each person living in the home (other than the child's own home) who is age 18 or over, each volunteer who is likely to have regular contact with children in care, and each employee if he or she has been convicted of a crime.

If I, or any other person listed below has been convicted of a crime, I or that other person will provide true and accurate information in writing to the parent/caretaker(s) of the children I will be caring for and to the Department of Social Services concerning the crime(s), the date(s) of such convictions and any other relevant information.

I understand that I am not eligible to provide child care if I, or any other person listed below, has been convicted of a felony or misdemeanor against children.

I understand that I am not eligible to provide child care if I, or any such other person listed below, has been convicted of a violent or other serious crime unless extenuating circumstances relating to the conviction(s) exist.

I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all documents or references required by the Department of Social Services.

List all individuals that will be helping to care for the children and, if care is provided in a home other than the child's own home, list all household members 18 or older.

INDIVIDUALS CARING FOR CHILDREN: _____

HOUSEHOLD MEMBERS: _____

**By signing this form the provider agrees that all statements are true and accurate.**

| PROVIDER NAME (PRINT): | PROVIDER SIGNATURE/DATE: |
|---|---|

## IV. ADMINISTRATION OF MEDICATION

NYS Law restricts the right to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to specific medical professionals who are authorized by NYS to administer medication. Some individuals are exempt from this requirement based on their relationship to the child, family or household, and are permitted to administer medications, including:

- The child's parent/caretaker, step-parent, legal custodian, legal guardian, or member of the child's household,
- A child care provider employed by the parent/caretaker to provide child care in the child's home,
- Family members who are related within the 3rd degree of consanguinity to the child's parent or step-parent, and
- Effective January 31, 2005, child care providers who are trained and authorized by the Office of Children and Family Services (OCFS), under a Health Care Plan for Administration of Medication, approved by a qualified health care consultant, may administer medication when such providers are:
  - operating in compliance with the NYS regulations,
  - authorized by the child's parent/caretaker, step-parent, legal guardian, or legal custodian to administer medication, and
  - administering medication to subsidized children in care.

To receive OCFS authorization to administer medication, a child care provider must be at least 18 years of age and literate in the language in which the parental permissions and health care provider's instructions will be given.

**Any person who is not authorized by NYS Law, or not exempt from this legal requirement, may only administer over-the-counter topical ointments, sunscreen and topical insect repellent.** Examples of medication such providers may not administer include, but are not limited to: Tylenol®; Ritalin®; insulin; antibiotics; and ear, eye or nose drops.

### A. QUALIFICATIONS FOR ADMINISTRATION OF MEDICATION

*Provider must complete.*

1. **Is the provider legally permitted to administer medication to subsidized children when authorized by a parent/caretaker, legal guardian, or legal custodian?**

   ☐ **Yes.**

   ☐ **No.** You are not authorized or permitted to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to the children in your care.

2. **Is an employee or volunteer of the program legally permitted to administer medication to subsidized children when authorized by a parent/caretaker, legal guardian, or legal custodian?**

   ☐ **Yes.** Give employee's or volunteer's name: _____

   ☐ **No.** Your employee/volunteer is not authorized or permitted to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to the children in your care.

3. **Give the reason that allows the provider and/or the employee/volunteer to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to subsidized children in the program.** *Answer this question only if you answered "Yes" to question 1 or 2.*

   *Check the box(es) below that show the reason(s) that the provider or the employee/volunteer named above is allowed to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to subsidized children in the program If there is a different answer or reason for different children, the provider must check all answers that apply.*

   *The provider must attach the documentation required for each answer, as indicated.*

   ☐ **A)** I am permitted to give medication because I am employed by the parent/caretaker to provide child care in the child's home. I am *not* required to have a Health Care Plan for Administration of Medication.

   ☐ **B)** I am permitted to give medication to the children for whom I am the grandparent, great-grandparent, great-great-grandparent, aunt/uncle (or spouse), great aunt/great uncle (or spouse), brother/sister or first cousin (or spouse). I am *not* required to have a Health Care Plan for Administration of Medication.

   ☐ **C)** I have a valid professional health care license as a physician, physician assistant, registered nurse or nurse practitioner that authorizes me to administer medication. I am *not* required to have a Health Care Plan for Administration of Medication.
   **I have attached a copy of my current medical license.**

☐ **D)** My employee/volunteer has a valid professional health care license as a physician, physician assistant, registered nurse, or nurse practitioner that authorizes him/her to administer medication. I am required to have a Health Care Plan for Administration of Medication.

**I have attached a copy of the approval page of my Health Care Plan for Administration of Medication, and a copy of my employee/volunteer's current medical license.**

☐ **E)** I have, or my employee/volunteer has, a valid professional license as a practical nurse or certification as an advanced emergency medical technician that allows me, or my employee/volunteer, to administer medication. I am required to have a Health Care Plan for Administration of Medication.

**I have attached a copy of my or my employee/volunteer's current medical license or certification, and a copy of the approval page of the Health Care Plan for Administration of Medication.**

☐ **F)** I have, or my employee/volunteer has, met the training requirements of OCFS regulations, 18 NYCRR Part 415.4 (f)(7)(iv)(z). I am required to have a Health Care Plan for Administration of Medication.

**I have attached a copy of the approval page of the Health Care Plan for Administration of Medication.**

## B. INTENT TO SEEK AUTHORIZATION TO ADMINISTER MEDICATON TO SUBSIDIZED DAY CARE CHILDREN

*Providers who are not permitted to administer medications and who do not have an employee/volunteer permitted to administer medication must answer this.*

**Will the provider be seeking authorization to administer medication to children in subsidized care?** *(Choose one)*

☐ **Yes.** I want to learn how to start the process. *Ask the Department of Social Services representative or, in New York City, the Human Resources Administration (HRA) or Administration for Children's Services (ACS) representative, for the following form: Obtaining Authorization to Administer Medication to Children in Legally-Exempt Care.*

☐ **No.** I will not be seeking authorization to administer medication at this time.

## C. PARENT/CARETAKER AND PROVIDER AGREEMENT FOR ADMINISTRATION OF MEDICATION

*Parent/caretaker must complete.*

**Who will be responsible for administering medication to your child(ren) in the provider's care?** *(Check all that apply).*

☐ The child care provider or qualified employee/volunteer named previously will administer medication to the child.

☐ The legally-exempt child care provider or employee/volunteer will not administer medication. Instead, the parent/caretaker will administer medication or choose a person who is permitted under NYS Education Law to administer medication. This may include a member of the child's household or certain relatives. The relatives who may be authorized include: the child's grandparent, great-grandparent, great-great-grandparent, aunt/uncle (and spouse), great aunt/great uncle (and spouse), brother/sister or first cousin (and spouse). The parent/caretaker will inform the provider in writing when he or she has chosen a person to give medication to his or her child.

## D. PROVIDER CERTIFICATION REGARDING ADMINISTRATION OF MEDICATION

*All providers must read and sign.*

I will administer medication in compliance with NYS law and only to the extent that I am permitted by NYS law to do so.

If I have employees, I will make sure that each of my employees administers medications in compliance with NYS law and only to the extent permitted by NYS law.

If I have volunteers, I will make sure that each of my volunteers administers medication in compliance with NYS law and only to the extent permitted by NYS law.

**By signing this, I agree that all the statements on this form are true and accurate.**

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| | |

### E. PARENT/CARETAKER CERTIFICATION REGARDING ADMINISTRATION OF MEDICATION

*Parent/caretaker must review and sign the certification below.*

**I certify that all statements on this form are true and accurate.**

I understand that it is **my responsibility** to make sure my child(ren) receives any necessary medication. I understand that if I choose a child care provider who is not able to meet all of my child(ren)'s health care needs, I am responsible for making additional arrangements to meet the child(ren)'s needs. I will make all necessary arrangements prior to placing my child in the provider's care.

My provider has informed me whether he or she (or his/her employee/volunteer) is legally permitted to administer medication. I have read the Qualifications for Administration of Medication, Section IV A, of this enrollment form, and I understand whether or not my provider or his/her employee/volunteer is legally permitted to give medication to my child(ren).

My child care provider and I have discussed who will administer medication to my child(ren) while the child(ren) is in the provider's care. Our agreement regarding who will be responsible for administering medication to my child(ren) is indicated on this form in Section IV C.

I understand that I may administer medication to my child, or that I may authorize another person that is legally permitted to administer medication to my child. I may authorize a member of my child's household or certain relatives of the child to administer medication. The relatives who may be authorized include: the child's grandparent, great-grandparent, great-great-grandparent, aunt/uncle (and spouse), great aunt/uncle (and spouse), brother/sister or first cousin (and spouse).

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| | |

## V. HISTORY OF COURT-ORDERED ARTICLE 10 REMOVAL OF A CHILD

*Provider must complete.*

### A. PROVIDER HISTORY

**1.** I certify that *(choose one):*

☐ I **have never** had a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act (FCA). *(Go to section B)*.

☐ I **have** had a child removed from my care by court order in a proceeding under Article 10 *(child protective)* of the Family Court Act.

**2.** Date(s) removal(s) occurred: _____

**3.** As a result of the FCA Article 10 hearing, was there a judicial finding of abuse or neglect?

☐ Yes, there was a judicial finding of abuse or neglect. *(Indicate type of finding below.)*

☐ Neglect ☐ Abuse, severe or repeated ☐ Abuse

☐ No, there was no judicial finding of abuse or neglect. *(Indicate reason below.)*

☐ petition was withdrawn ☐ Article 10 petition was not filed with the court

☐ case was dismissed ☐ Other, explain: _____

4. Length of time that the child(ren) were removed from the home *(choose one)*:

☐ 3 days or less ☐ more than 3 days and as many as 60 days

☐ more than 60 days but less than 15 months ☐ 15 months or longer

5. *Provider must attach a written description of what led to the removal and the underlying reasons for the removal.*

### B. PROVIDER CERTIFICATION REGARDING HISTORY OF ARTICLE 10 REMOVAL

*The provider must complete this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding any history of an Article 10 removal of a child in my care.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## VI. HISTORY OF TERMINATION OF PARENTAL RIGHTS

*Provider must complete.*

### A. PROVIDER HISTORY

1. I certify and attest that *(Choose one):*
   - ☐ **I have never had** my parental rights terminated. *(Proceed to Part B.)*
   - ☐ I **have** had my parental rights terminated.
2. My parental rights were terminated rights were terminated based on: *(Check reason below):*
   - ☐ Abandonment ☐ Mental illness ☐ Permanent neglect
   - ☐ Mental retardation ☐ Severe or repeated abuse ☐ Other, _____
3. *Provider must attach a written description of what led to the termination of parental rights and the underlying reasons for the termination of parental rights.*

### B. PROVIDER CERTIFICATION REGARDING HISTORY OF TERMINATION OF PARENTAL RIGHTS

*The provider must sign this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding any history of a termination of my parental rights.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## VII. HISTORY OF SUSPENSION, REVOCATION OR DENIAL OF A LICENSE OR REGISTRATION TO OPERATE A CHILD DAY CARE PROGRAM

*Provider must complete.*

(CHILD DAY CARE includes: day care centers, family day care homes, group family day care homes, small day care centers and/or school age child care programs.)

### A. PROVIDER HISTORY

1. I certify and attest *(Choose all that apply):*
   - ☐ I **have** applied for an initial license or registration to operate a child day care program, and been denied.
   - ☐ I **have** applied for a renewal of a license or registration to operate a child day care program and been denied.
   - ☐ I have applied for an initial or renewed license or registration to operate a child day care program and I **have never** been denied an application for or a renewal of a license or registration to operate a child day care program.
   - ☐ I have never applied for a license or registration to operate a child day care program. *(Go to Part B.)*
2. I certify and attest that *(Choose one):*
   - ☐ I **have never had** a license or registration to operate a child day care program revoked or suspended.
   - ☐ I **have had** a license or registration to operate a child day care program revoked or suspended.
3. If you have ever had a license or registration revoked, suspended or denied, give the name and location of the child day care program(s) for which this action occurred.

   _____

   _____
4. *Provider must attach a written description of what led to the denial, revocation or suspension of the license or registration to operate a child day care program, and the reasons this occurred.*

### B. PROVIDER CERTIFICATION REGARDING LICENSING/REGISTRATION HISTORY

*The provider must sign this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding my history of denial, revocation, or suspension of a license or registration to operate a child day care program.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## VIII. PARENT/CARETAKER AND PROVIDER CERTIFICATIONS

### A. PROVIDER CERTIFICATIONS

I will notify the Department of Social Services immediately if the hours of care, number of children in my care, or any information provided on the enrollment form or attachments changes.

I agree to collect the family share (fee) if instructed to do so by the Department of Social Services. I will immediately notify the Department of Social Services if the parent/caretaker fails to pay the required family share. I agree to provide accurate attendance records as required by the Department of Social Services.

I understand that representatives of the Department of Social Services and the State of New York may visit my child care program to confirm that the information on my enrollment form and/or on attendance forms is true and accurate and that child care services are being provided as listed on those forms. I agree to allow representatives of the Department of Social Services and the State of New York access to all areas where child care is provided for a child receiving a child care subsidy. I understand that if I do not allow such access, then I will be considered an ineligible provider. Any child care that I provide to a child receiving a child care subsidy while I am deemed an ineligible provider by the Department of Social Services will not be reimbursed by the Department of Social Services.

I understand that I may not be eligible to provide child care if I have a history of an Article 10 (child protective) removal of a child by court order, termination of parental rights, or denial, revocation and/or suspension of a license or registration to operate a child day care program. I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all information, documents or references required by the Department of Social Services.

### B. PARENT/CARETAKER CERTIFICATIONS

I understand that my provider may not be eligible to provide child care if he or she has a history of an Article 10 (child protective) removal of a child by court order, termination of parental rights, or denial, revocation and/or suspension of a license or registration to operate a child day care program. I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow my provider to provide child care. If I request an exception, the provider must provide all information, documents or references required by the Department of Social Services.

I understand that the Department of Social Services may not be able to pay a provider when:

- The provider, any volunteer who is likely to have regular contact with my children, any employee, or person living in the home (other than the child's home) age 18 years or older has been convicted of a crime; or
- The provider has a history of an Article 10 (child protective) removal of a child by court order; termination of parental rights; or denial, revocation and/or suspension of a license or registration to operate a child day care program.

If the Department of Social Services determines that payment cannot be made to the provider when any of the above events have occurred, I have the right and responsibility to decide whether I want to use this provider. If I choose to continue using such a provider, I am responsible to pay for the child care myself. I understand that I have the right to select another provider.

I will notify the Department of Social Services if the hours that I need child care or other circumstances related to my need or eligibility for child care change. I agree to pay my family share (fee), if any, as directed by the Department of Social Services.

I certify that I have selected this provider to care for my child(ren). I understand that it is my responsibility to monitor the quality of care furnished to my child(ren).

### C. PARENT/CARETAKER AND PROVIDER CERTIFICATIONS

We state that to the best of our knowledge and belief all statements made on this form and any attachments are accurate and true. We understand that providing false information may result in the termination of payments and legal action by the Department of Social Services.

We state that the parent/caretaker has specifically asked the provider if the provider, volunteers who are likely to have regular contact with children in care, employees, and if care is provided in the provider's home, persons living in the home age 18 years or over, have been the subject of an indicated report of child abuse or maltreatment. The provider has asked volunteers who are likely to have regular contact with children in care, employees, and if care is provided in the provider's home persons living in the home age 18 years or over, if they have been the subject of an indicated report of child abuse or maltreatment. The provider has given the parent/caretaker true and accurate information in writing regarding any indications of child abuse or maltreatment. The parent/caretaker has considered the information given on child abuse and maltreatment indications and is selecting this provider. The parent/caretaker understands he or she has the right to select another provider.

We state that we completed the Home Safety Checklist together. We understand that payment cannot be made until items marked “No” on the Home Safety Checklist have been corrected. We agree to notify and provide documentation to the Department of Social Services when any item on the Checklist has been corrected or changed.

**By signing this form, the parent/caretaker and provider agree to all of the requirements listed above.**

| **PARENT/CARETAKER SIGNATURE:** | **DATE:** |
|---|---|
| **PROVIDER SIGNATURE:** | **DATE:** |

Date (District Use) _____

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT GROUP CHILD CARE

| Parent/Caretaker's Name: | Case Number: |
|---|---|
| Address: | |
| Telephone: | Social Security Number**(Not required, please see below)*: |
| Provider's Name: | Date Of Birth**: |
| Address Where Care Is Given: | |
| Provider's Address (*If Different*): | |
| Telephone: | Social Security Number: |

* The parent/caretaker may, but does not have to list his/her social security number. You cannot be required to disclose your social security number as a condition of eligibility for child care services. If provided, your social security number will be used to assist in identifying your child care file. It may also be used by federal, State and local agencies to prevent duplication of services and fraud, and for federal reporting.

** If the provider is less than 18 years old, the Employment of Minors Form must be completed.

## I. HOW MUCH IS THE PROVIDER CHARGING FOR EACH CHILD (IN THIS CASE)?

| | Child's Name | Date of Birth | Amount Charged (per hour/day/week) |
|---|---|---|---|
| A) | | | |
| B) | | | |
| C) | | | |

☐ I agree that the amount I am charging the parent/caretaker signing this form is NOT MORE THAN the amount I am charging for other children of the same age and similar care.

**Who will supply meals and snacks?**

Meals and snacks may be supplied either by the parent/caretaker or by the provider. *Check the box that states what you have agreed to.* If you want information about how your child care program can get money to help pay for meals and snacks, call the Child and Adult Care Food Program at 1(800) 942-3858.

☐ The provider will supply snacks and meals.

☐ The parent/caretaker will supply snacks and meals.

☐ Other – Explain: _____

## II. TYPE OF PROGRAM

*Provider: Check the statement that describes your program:*

☐ 1. This program is a nursery school, pre-kindergarten or day care program for children three years of age or older or a program for school-age children conducted during non-school hours, **operated by a public school district** that is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located on the same premises or campus where the elementary or secondary education is provided.

☐ 2. This program is a nursery school that is **voluntarily registered with the NYS Education Department** and operated in accordance with Part 125 of its regulations. **Attach a copy of your registration.**

☐ 3. This program is a summer day camp operated in accordance with Subpart 7-2 of the State Sanitary Code. **Attach a copy of your permit from the NYS Department of Health to operate a summer day camp.**

☐ 4. This program is a day care center, family day care home or other child care program **located on federal or tribal property** and operated in compliance with applicable federal or tribal laws and regulations.

☐ 5. This is a nursery school, pre-kindergarten or day care program for children three years of age or older or a program for school-aged children conducted during non-school hours, **operated by a private school or academy** which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located on the same premises or campus where the elementary or secondary education is provided.

☐ 6. This program is a nursery school or program for preschool-aged children **operated by a nonprofit agency or organization or a private proprietary agency** which is not voluntarily registered with NYS Education Department and which provides services to children for three or less hours per day.

☐ 7. This is a school age program that cares for not more than six children.

☐ 8. None of the above statements describe this program. If this is your answer, you may need to be licensed or registered. Until you are licensed or registered or can provide documentation that you are legally-exempt from licensing and registering requirements, the Department of Social Services cannot pay you to provide child care. For information about licensing, contact the Bureau of Early Childhood Services at 1-800-732-5207.

*If your program meets the definition found in **statements 1, 2, 3, or 4** above, proceed to **Section IV, Criminal History Certifications.** You do not need to complete the following sections:*

- ***Section III**, Facility Safety Checklist;*
- ***Section V**, Administration of Medication,*
- ***Section VI,** History of Court Ordered Article 10 Removal of a Child*
- ***Section VII,** History of Termination of Parental Rights*
- ***Section VIII**, History Of A Suspension, Revocation or Denial of a License or Registration to Operate a Child Day Care Program.*

*If your program meets the definition found in **statements 5, 6, 7 or 8**, then you must complete all sections in this enrollment form.*

***All providers must complete Section IX, Parent/Caretaker and Provider Certifications.***

## III. FACILITY SAFETY CHECKLIST

*Provider and parent/caretaker should complete this together.*

### A. THE PROVIDER MEETS THESE REQUIREMENTS BEFORE CARING FOR CHILDREN:

| Yes | No | |
|---|---|---|
| ☐ | ☐ | The provider and all children have two separate & remote ways to leave the building in an emergency. |
| ☐ | ☐ | Rooms for children are well-heated, well-lighted and well-ventilated. |
| ☐ | ☐ | The facility is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around the unsafe areas that keep children from getting to them. |
| ☐ | ☐ | If child care is provided above the first floor, there are barriers or locks on the windows so children can not fall out. |
| ☐ | ☐ | The water supply is safe. There are working toilets. There is hot and cold running water all the time. |
| ☐ | ☐ | The provider, each volunteer who is likely to have regular contact with the children and each employee are physically able to provide child care and are free of any communicable disease. |
| ☐ | ☐ | The facility is free of any dangerous or unsafe conditions that could hurt a child. This includes:<br>• Knives and other sharp objects are out of the reach of children.<br>• Small rugs, runners, and electrical cords are held in place so a child won't trip.<br>• Electrical cords do not run under furniture or rugs and are out of the reach of small children.<br>• Extension cords are not overloaded.<br>• Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place.<br>• Cords to window blinds and shades are out of the reach of children.<br>• Hot liquids are out of the reach of children.<br>• Small items that a child could choke on are out of the children's reach. |
| ☐ | ☐ | All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with children, where food is prepared, or otherwise be a danger to the children. All of these materials are stored safely away from the children. |
| ☐ | ☐ | Each child will receive meals and snacks according to what the parent/caretaker and the provider have agreed. |
| ☐ | ☐ | Milk, formula and any food that goes bad if left out will be kept refrigerated. |
| ☐ | ☐ | If the provider cares for infants, formula, breast milk and other food items for infants will not be heated in a microwave oven. |
| ☐ | ☐ | The provider will always allow the custodial parent/caretaker or caretaker to have access to his/her children in care, to the facility while the child is in care, and to any written records concerning the child. |
| ☐ | ☐ | The provider will hold evacuation drills at least once a month with the children so they will know what to do in an emergency. |
| ☐ | ☐ | The provider has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |
| ☐ | ☐ | If a child in care is under 5 years old, protective caps, covers or permanently installed safety devices are used on all electrical outlets that children could reach. |

| Yes | No | |
|---|---|---|
| ☐ | ☐ | Paint and plaster are in good repair so that there is no danger of children putting paint or plaster chips in their mouths or of it getting into food. |
| ☐ | ☐ | There is at least one operating smoke detector on each floor of the facility. The provider will check regularly to make sure all detectors work. |
| ☐ | ☐ | The facility has a portable first aid kit that is easy to get to in an emergency and is kept in a clean container away from children. It is stocked to treat common childhood injuries and problems. The provider will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used. |
| ☐ | ☐ | The parent/caretaker has given the provider signed proof from a doctor or other health care provider that: the child has received all of the immunizations they should have for the child's age; OR that one or more of the immunizations would harm the child's health; OR the child's parent/caretaker provides a statement saying that the child has not been immunized due to the parent/caretaker's religious beliefs. |
| ☐ | ☐ | Stairs, railings, porches and balconies are in good repair. |

### B. THE PROVIDER AGREES TO THE FOLLOWING CONDITIONS:

The provider WILL NEVER use corporal punishment or let others use corporal punishment while children are in care. Corporal punishment means doing things directly to a child's body to punish them such as: spanking; biting; shaking; slapping; twisting or squeezing; making the child do physical exercises beyond what is normal; forcing the child to stay still for long periods of time; making the child stay in positions that hurt the child or are bizarre; bathing the child in unusually hot or cold water; and forcing the child to eat or have in the child's mouth soap, foods, hot spices or foreign substances.

The provider WILL NEVER use or be under the influence of alcohol or drugs while children are in care and will make sure that children that being cared for do not have contact with people using drugs or alcohol.

The provider WILL NOT smoke or allow smoking in in-door areas or in other enclosed areas, such as in cars or other vehicles, when children are present.

The provider, volunteers, and employees WILL NEVER leave children alone or in the care of other people.

**BY SIGNING THE FACILITY SAFETY CHECKLIST, THE PARENT/CARETAKER AND PROVIDER AGREE THAT THEY HAVE INSPECTED THE FACILITY AND THAT ALL STATEMENTS ON THE FORM ARE TRUE AND ACCURATE.**

| PROVIDER NAME (PRINT): | PROVIDER SIGNATURE: | DATE: |
|---|---|---|
| PARENT/CARETAKER NAME (PRINT): | PARENT/CARETAKER SIGNATURE: | DATE: |

## IV. CRIMINAL HISTORY CERTIFICATIONS:

*To be completed by provider*

### A. PROVIDER HISTORY

I certify to the best of my knowledge and belief that **I** (*Choose one*):

☐ **have** been convicted of a crime in New York State or any other place.

☐ **have *not*** been convicted of a crime in New York State or any other place.

### B. OTHER CAREGIVER (EMPLOYEE AND VOLUNTEER) HISTORY

I certify to the best of my knowledge and belief that **any VOLUNTEER,** who is likely to have regular contact with children in care, and **any EMPLOYEE** (*Choose one*):

☐ **has** been convicted of a crime in New York State or any other place.

☐ **has *not*** been convicted of a crime in New York State or any other place.

### C. CERTIFICATION

I certify that I have asked each volunteer, who is likely to have regular contact with children in care, and I have asked each employee, if he or she has been convicted of a crime.

If I, or any other person listed below has been convicted of a crime, I or that other person will provide true and accurate information in writing to the parent/caretaker(s) of the children I will be caring for and to the Department of Social Services concerning the crime(s), the date(s) of such convictions and any other relevant information.

I understand that I am not eligible to provide child care if I, or any other person listed below, has been convicted of a felony or misdemeanor against children.

I understand that I am not eligible to provide child care if I, or any such other person listed below, has been convicted of a violent or other serious crime unless extenuating circumstances relating to the conviction(s) exist.

I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all documents or references required by the Department of Social Services.

List all employees, and all volunteers who are likely to have regular contact with children in care.

**BY SIGNING THIS FORM THE PROVIDER AGREES THAT ALL STATEMENTS ARE TRUE AND ACCURATE.**

| PROVIDER NAME (PRINT): | PROVIDER SIGNATURE: | DATE: |
|---|---|---|
| | | |

*If your program is program type **1, 2, 3, or 4** as defined in Section II, proceed to **Section IX, Parent/Caretaker** and Provider Certifications.*

## V. ADMINISTRATION OF MEDICATION

NYS Law restricts the right to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to specific medical professionals who are authorized by NYS to administer medication. Some individuals are exempt from this requirement based on their relationship to the child, family or household, and are permitted to administer medications, including:

- The child's parent, step-parent, legal custodian, legal guardian, or a member of the child's household,
- A child care provider employed by the parent/caretaker to provide child care in the child's home,
- Family members who are related within the 3rd degree of consanguinity to the child's parent or step-parent, and
- Effective January 31, 2005, child care providers who are trained and authorized by the Office of Children and Family Services (OCFS), under a Health Care Plan for Administration of Medication, approved by a qualified health care consultant, may administer medication when such providers are:
  - operating in compliance with the NYS regulations,
  - authorized by the child's parent/caretaker, step-parent, legal guardian, or legal custodian to administer medication, and
  - administering medication to subsidized children in care.

  To receive OCFS authorization to administer medication, a child care provider must be at least 18 years of age and literate in the language in which the parental permissions and health care provider's instructions will be given.

**Any person who is not authorized by NYS Law, or not exempt from this legal requirement, may only administer over-the-counter topical ointments, sunscreen and topical insect repellent.** Examples of medication such providers may not administer include, but are not limited to: Tylenol®; Ritalin®; insulin; antibiotics; and ear, eye or nose drops.

## A. QUALIFICATIONS TO ADMINISTER MEDICATION

*Provider must complete.*

1. **Is the provider legally permitted to administer medication to subsidized children when authorized by a parent/caretaker, legal guardian, or legal custodian?**

   ☐ **Yes.**

   ☐ **No.** You are not authorized or permitted to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to the children in your care.

2. **Is an employee or volunteer of the program legally permitted to administer medication to subsidized children when authorized by a parent/caretaker, legal guardian, or legal custodian?**

   ☐ **Yes.** Give employee/volunteer's name: _____

   ☐ **No.** Your employee/volunteer(s) is not authorized or permitted to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to the children in your care.

3. **Give the reason that allows the provider and/or the employee/volunteer to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to subsidized children in the program.** *Answer this question only if you answered "Yes" to question 1 or 2.*

   *Check the box(es) below that show the reason(s) that the provider or the employee/volunteer named above is allowed to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to subsidized children in the program If there is a different answer or reason for different children, the provider must check all answers that apply.*

   *The provider must attach the documentation required for each answer, as indicated.*

   ☐ **A)** I have a valid professional health care license as a physician, physician assistant, registered nurse or nurse practitioner that authorizes me to administer medication. I am *not* required to have a Health Care Plan for Administration of Medication.
   **I have attached a copy of my current medical license.**

   ☐ **B)** My employee/volunteer has a valid professional health care license as a physician, physician assistant, registered nurse, or nurse practitioner that authorizes him/her to administer medication. I am required to have a Health Care Plan for Administration of Medication.
   **I have attached a copy of the approval page of my Health Care Plan for Administration of Medication, and a copy of my employee/volunteer's current medical license.**

   ☐ **C)** I have, or my employee/volunteer has, a valid professional license as a practical nurse or certification as an advanced emergency medical technician that allows me, or my employee/volunteer, to administer medication. I am required to have a Health Care Plan for Administration of Medication.
   **I have attached a copy of my or my employee's/volunteer's current medical license or certification, and a copy of the approval page of the Health Care Plan for Administration of Medication.**

   ☐ **D)** I have, or my employee/volunteer has, met the training requirements of OCFS regulations, 18 NYCRR Part 415.4 (f)(7)(iv)(z). I am required to have a Health Care Plan for Administration of Medication.
   **I have attached a copy of the approval page of the Health Care Plan for Administration of Medication.**

## B. INTENT TO SEEK AUTHORIZATION TO ADMINISTER MEDICATION TO SUBSIDIZED DAY CARE CHILDREN

*Providers who are not permitted to administer medications must answer this.*

**Will the provider be seeking authorization to administer medication to subsidized day care children?** *(choose one).*

☐ **Yes.** I want to learn how to start the process. *Ask the Department of Social Services representative, or in New York City, the Human Resource Administration (HRA) or Administration for Children's Services (ACS) representative, for the following form: Obtaining Authorization to Administer Medication to Children in Legally-Exempt Care.*

☐ **No.** I will not be seeking authorization to administer medication at this time.

## C. PARENT/CARETAKER AND PROVIDER AGREEMENT FOR ADMINISTRATION OF MEDICATION

*Parent/caretaker must complete this section.*

**Who will be responsible for administering medication to your child(ren) in the provider's care?** *(Check all that apply).*

☐ The child care provider or qualified employee/volunteer named previously will administer medication to the child.

☐ The legally-exempt child care provider or employee/volunteer will not administer medication. Instead, the parent/caretaker will administer medication or choose a person who is permitted under NYS Education Law to administer medication. This may include a member of the child's household or certain relatives. The relatives who may be authorized include: the child's grandparent, great-grandparent, great-great-grandparent, aunt/uncle (and spouse), great aunt/great uncle (and spouse), brother/sister or first cousin (and spouse). The parent/caretaker will inform the provider in writing when he or she has chosen a person to give medication to his or her child.

## D. PROVIDER CERTIFICATION REGARDING ADMINISTRATION OF MEDICATION

*Provider must complete this section:*

I will administer medication in compliance with NYS law and only to the extent that I am permitted by NYS law to do so.

If I have employees, I will make sure that each of my employees administers medication in compliance with NYS law and only to the extent permitted by NYS law.

If I have volunteers, I will make sure that each of my volunteers administers medication in compliance with NYS law and only to the extent permitted by NYS law.

**By signing this, I agree that the all statements on this form are true and accurate.**

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| | |

## E. PARENT/CARETAKER CERTIFICATION REGARDING ADMINISTRATION OF MEDICATION

**I certify that all statements on this form are true and accurate.**

I understand that it is **my responsibility** to make sure my child(ren) receive(s) any necessary medication. I understand that if I choose a child care provider who is not able to meet all of my child(ren)'s health care needs, I am responsible for making additional arrangements to meet the child(ren)'s needs. I will make all necessary arrangements prior to placing my child in the provider's care.

My provider has informed me whether he or she (or his/her employee/volunteer) is legally permitted to administer medication. I have read the Qualifications For Administration Of Medication, Section V A, of this enrollment form, and I understand whether or not my provider or his/her employee/volunteer is legally permitted to give medication to my child(ren).

My child care provider and I have discussed who will administer medication to my child(ren) while the child(ren) is in the provider's care. Our agreement regarding who will be responsible for administering medication to my child(ren) is indicated on this form in Section V C.

I understand that I may administer medication to my child, or that I may authorize another person that is legally permitted to administer medication to my child. I may authorize a member of my child's household or certain relatives of the child to administer medication. The relatives who may be authorized include: the child's grandparent, great-grandparent, great-great-grandparent, aunt/uncle (and spouse), great aunt/great uncle (and spouse), brother/sister or first cousin (and spouse).

| PARENT/CARETAKER SIGNATURE | DATE: |
|---|---|
| | |

## VI. HISTORY OF COURT-ORDERED ARTICLE 10 REMOVAL OF A CHILD

*Provider must complete.*

### A. PROVIDER HISTORY

1. I certify that *(choose one):*
   - ☐ I *have never* had a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act (FCA). *(Go to section B.)*
   - ☐ I *have* had a child removed from my care by court order in a proceeding under Article 10 of the Family Court Act.
2. Date(s) removal(s) occurred:_____
3. As a result of the FCA Article 10 hearing, was there a judicial finding of abuse or neglect?
   - ☐ Yes, there was a judicial finding of abuse or neglect. *(Indicate type of finding below.)*
     - ☐ Neglect ☐ Abuse, severe or repeated ☐ Abuse
   - ☐ No, there was no judicial finding of abuse or neglect. *(Indicate reason below.)*
     - ☐ petition was withdrawn ☐ Article 10 petition was not filed with the court
     - ☐ case was dismissed ☐ Other, *explain*: _____
4. Length of time that the child(ren) were removed from the home *(choose one):*
   - ☐ 3 days or less ☐ more than 3 days and as many as 60 days
   - ☐ more than 60 days but less than 15 months ☐ 15 months or longer
5. *Provider must attach a written description of what led to the removal and the underlying reasons for the removal.*

### *B.* PROVIDER CERTIFICATION REGARDING HISTORY OF ARTICLE 10 REMOVAL.

*The provider must complete this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding any history of an Article 10 removal of a child in my care.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## VII. HISTORY OF TERMINATION OF PARENTAL RIGHTS

*Provider must complete.*

### A. PROVIDER HISTORY

1. I certify and attest that *(Choose one):*
   - ☐ I *have never* had my parental rights terminated. *(Proceed to Part B.)*
   - ☐ I *have* had my parental rights terminated.
2. My parental rights were terminated based on: *(Check reason below):*
   - ☐ Abandonment ☐ Mental illness ☐ Permanent neglect
   - ☐ Mental retardation ☐ Severe or repeated abuse ☐ Other: _____
3. ***Provider must attach a written description of what led to the termination of parental rights and the underlying reasons for the termination of parental rights.***

### B. PROVIDER CERTIFICATION REGARDING HISTORY OF TERMINATION OF PARENTAL RIGHTS

*The provider must sign this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding any history of a termination of my parental rights.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## VIII. HISTORY OF A SUSPENSION, REVOCATION OR DENIAL OF A LICENSE OR REGISTRATION TO OPERATE A CHILD DAY CARE PROGRAM

(CHILD DAY CARE includes: day care centers, family day care homes, group family day care homes, small day care centers and/or school age child care programs.) *Provider must complete.*

### A. PROVIDER HISTORY

1. I certify and attest *(Choose all that apply)*:
   - ☐ I *have* applied for *an initial* license or registration to operate a child day care program, and been denied.
   - ☐ I *have* applied for *a renewal* of a license or registration to operate a child day care program and been denied.
   - ☐ I have applied for an initial or renewed license or registration to operate a child day care program and I *have never been denied* an application for or a renewal of a license or registration to operate a child day care program.
   - ☐ I have never applied for a license or registration to operate a child day care program. *(Go to Part B.)*
2. I certify and attest that *(Choose one):*
   - ☐ I *have never had* a license or registration to operate a child day care revoked or suspended.
   - ☐ I *have* had a license or registration to operate a child day care revoked or suspended.
3. If you have ever had a license or registration revoked, suspended or denied, give name and location of the child day care program(s) for which this action occurred _____

   _____

   _____

4. *Provider must attach a written description of what led to the denial, revocation or suspension of the license or registration to operate a day care program, and the reasons this occurred.*

### B. PROVIDER CERTIFICATION REGARDING LICENSING/REGISTRATION HISTORY

*The provider must sign this certification.*

**By signing this form, I agree that I have provided true and accurate information regarding my history of denial, revocation or suspension of a license or registration to operate a child day care program.**

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|
| | |

## IX. PARENT/CARETAKER AND PROVIDER CERTIFICATIONS

### A. PROVIDER CERTIFICATIONS

I will notify the Department of Social Services immediately if the hours of care or number of children in my care changes.

I agree to collect the family share (fee) if instructed to do so by the Department of Social Services. I will immediately notify the Department of Social Services if the parent/caretaker fails to pay the required family share. I agree to provide accurate attendance records as required by the Department of Social Services.

I understand that representatives of the Department of Social Services and the State of New York may visit my child care program to confirm that the information on my enrollment form and/or on attendance forms is true and accurate, and that child care services are being provided as listed on those forms. I agree to allow representatives of the Department of Social Services and the State of New York access to all areas where child care is provided for a child receiving a child care subsidy. I understand that if I do not allow such access, then I will be considered an ineligible provider. Any child care that I provide to a child receiving a child care subsidy while I am deemed an ineligible provider by the Department of Social Services will not be reimbursed by the Department of Social Services.

I understand that I may not be eligible to provide child care if I have a history of an Article 10 (child protective) removal of a child by court order, termination of my parental rights, or denial, revocation and/or suspension of a license or registration to operate a child day care program. I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all information, documents or references required by the Department of Social Services.

## B. PARENT/CARETAKER CERTIFICATIONS

I understand that my provider may not be eligible to provide child care if he or she has a history of an Article 10 (child protective) removal of a child by court order, termination of parental rights, or denial, revocation and/or suspension of a license or registration to operate a child day care program. I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow my provider to provide child care. If I request an exception, the provider must provide all information, documents or references required by the Department of Social Services.
I understand that the Department of Social Services may not be able to pay a provider when:

- The provider, any volunteer, who is likely to have regular contact with my children, or any employee has been convicted of a crime; or
- The provider has a history of an Article 10 removal of a child by court order, termination of parental rights, or denial, revocation and/or suspension of a license or registration to operate a child day care program.

If the Department of Social Services determines that payment cannot be made to the provider when any of the above events have occurred, I have the right and responsibility to decide whether I want to use this provider. If I choose to continue using such a provider, I am responsible to pay for the child care myself. I understand that I have the right to select another provider.

I will notify the Department of Social Services if the hours that I need child care or other circumstances related to my need or eligibility for child care change. I agree to pay my family share (fee), if any, as directed by the Department of Social Services.

I certify that I have selected this provider to care for my child(ren). I understand that it is my responsibility to monitor the quality of care furnished to my child(ren).

## C. PARENT/CARETAKER AND PROVIDER CERTIFICATIONS

We state that to the best of our knowledge and belief all statements made on this form and any attachments are accurate and true. We understand that providing false or inaccurate information may result in the termination of payments and legal action by the Department of Social Services.

We state that the parent/caretaker has specifically asked the provider if the provider, volunteers who are likely to have regular contact with children in care, or employees have been the subject of an indicated report of child abuse or maltreatment. The provider has asked all volunteers who are likely to have regular contact with children in care and all employees if they have been the subject of an indicated report of child abuse or maltreatment. The provider has given the parent/caretaker true and accurate information in writing regarding any indications of child abuse or maltreatment. The parent/caretaker has considered the information given on child abuse and maltreatment indications and is selecting this provider. The parent/caretaker understands he/she has the right to select another provider.

If the provider is required to complete the Facility Safety Checklist, we state that we have completed it together. We understand that payment cannot be made until items marked "No" on the Facility Safety Checklist have been corrected. We agree to notify and provide documentation to the Department of Social Services when any item on the Checklist has been corrected or changed.

**By signing this form, the parent/caretaker and provider agree to all of the requirements listed above.**

| PARENT/CARETAKER SIGNATURE | DATE |
|---|---|
| PROVIDER SIGNATURE | DATE |

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF CHILD CARE ASSISTANCE OVERPAYMENT AND REPAYMENT REQUIREMENTS

| NOTICE DATE | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE Name (And C/O Name if Present) and ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____<br>OR Agency Conference _____<br>Fair Hearing Information and Assistance 1-800-342-3334<br>Record Access _____<br>Legal Assistance Information _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

**YOU HAVE THE RIGHT TO A FAIR HEARING TO APPEAL THIS DECISION. YOU ALSO HAVE THE RIGHT TO AN AGENCY CONFERENCE. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION AT A FAIR HEARING AND/OR REQUEST AN AGENCY CONFERENCE.**

## Section I-Notice of Child Care Assistance Overpayment

You received more child care benefits than you should have (overpayment) from _____ to _____. The amount of the overpayment is $_____.

The reason the overpayment occurred is:

- ☐ You or someone in your household failed to inform us of changes that affect your eligibility or benefit level.
- ☐ We incorrectly gave you more benefits than you should have gotten due to: _____
- ☐ Other: _____

Explanation and Calculation of Overpayment: _____

The regulations that allow us to do this are 18 NYCRR 415.4 (i) and (j).

## Section II-Repayment Plan Agreement

**If you are requesting a Fair Hearing regarding this decision, you are not required to complete and sign the repayment plan at this time. However, you must complete and sign the Fair Hearing request on the reverse side of this form and return it to the address indicated on the reverse.**

You are required to make full repayment by _____. If you are unable to repay the overpayment as shown below or you want to set up another agreement plan, or if you have any questions please call _____ at _____, right away. Otherwise, sign this agreement, make a copy of it for yourself, and return the agreement to the address at the bottom of this page.

If you do not respond to this notice, your case will be closed.

**Your repayment plan is shown below.**

- ☐ Revised Family Share--Recovery will be made from your child care benefits. To repay this debt, you must pay $_____ per week. This is in addition to your current family share of $_____ per week. **Your total family share** is now $_____ per week. You must make this payment each week to your child care provider. Your first payment is due on _____. We will pay your provider $_____ per week.
- ☐ You must make weekly payments of $_____ to the Department of Social Services. You must send payment to the address below. Your first payment is due on _____. We will pay your provider $_____ per week.

**I agree to repay by this method. I understand that failure to pay the amount stated on time will result in a discontinuation of my child care benefits and/or legal action may be taken in the court to recover this overpayment.**

_____ _____
**Signature** **Date**

**Return this repayment plan agreement to:**

**RIGHT TO A CONFERENCE:** You may have an agency conference to review these actions. A conference is when you meet with someone from the agency, other than the person who made the decision, to discuss your case. You may request an agency conference by calling the number on the front of this notice, in the upper right hand corner. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. Requesting an agency conference is not the same as requesting a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you disagree with the decision made by our agency, you may request a fair hearing. At the hearing you will have the opportunity to present written and oral evidence to demonstrate why you think the agency's decision is wrong and the action should not be taken. You have the right to be represented by legal counsel, a relative, friend or other person, or you may represent yourself. You have the right to bring witnesses and to question witnesses at the fair hearing. You have the right to present written and oral evidence at the hearing, and should bring any documents that may be helpful in presenting your case, such as this notice, pay stubs, receipts, child care bills, medical verification, letters, etc. There is additional information below on how to obtain access to your file and copies of documents in your file.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING:**

When you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or, to represent yourself.

**TO REQUEST A FAIR HEARING:**

***Telephoning:*** **1 800-342-3334** (Please have this notice with you when you call).

***Online:*** Complete an online request form at: http://www.otda.state.ny.us/oah/forms.asp.

***Walk In Locations:*** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY.

***Writing:*** Complete the following information, sign and mail a copy of this entire notice to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. **Please keep a copy for yourself.**

***Faxing:*** Complete the following information, sign and fax this entire notice to the New York State Office of Administrative Hearings at: 518-473-6735.

☐ **I want a fair hearing. The Agency's action is wrong because:** _____

_____

_____

☐ **I understand I may be eligible for aid continuing (current recipients only). My benefits have been stopped and I wish to have my benefits restored (aid continuing) until the hearing decision is issued.**

If you request a fair hearing and aid continuing, within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care benefits, through lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued until the hearing decision is issued.**

**Signature of Client:** _____ **Date:** _____

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** You have a right to look at your case file, and to receive free copies of the documents that the agency will put into evidence and other documents necessary for you to prepare for the fair hearing. To review your file or receive copies of any documents in your file, you can call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. If you want the documents mailed to you, you must specifically ask that they be mailed. You should ask for documents ahead of time. They will be provided to you within a reasonable time before the date of the hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF FRAUD DETERMINATION, DISQUALIFICATION FOR CHILD CARE BENEFITS AND REPAYMENT PLAN

| NOTICE DATE: | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NUMBER FOR QUESTIONS OR HELP _____<br>OR<br>Agency Conference _____<br>Fair Hearing Information and Assistance 1-800-342-3334<br>Record Access _____<br>Legal Assistance Information _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

**YOU HAVE THE RIGHT TO AN AGENCY CONFERENCE AND TO A FAIR HEARING TO APPEAL THIS DECISION. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO REQUEST AN AGENCY CONFERENCE AND/OR A FAIR HEARING.**

**Section I: This notice is to inform you:**

1. The Department of Social Services has determined that you have fraudulently received child care benefits and you are disqualified from receiving child care benefits, AND
2. You have received an overpayment and you must repay the overpayment.

**The regulation which allows us to do this is: 18 NYCRR 415.4(i).**

**Section II: Fraud Determination**

The Department's finding of fraudulent receipt of child care benefits was based on:

☐ Your conviction by a court of law on _____ of fraudulently receiving child care benefits.
☐ Your signing a voluntarily admission dated _____.

The fraudulent activity resulted in an overpayment of $_____, occurring from _____ to _____.

**Section III: Length of Disqualification Period**

As a result of the fraudulent receipt of benefits, you are disqualified from receiving child care benefits. New York State regulations, 18 NYCRR 415.4(i)(13), establish time periods for suspension or termination of benefits depending on the number of offenses and the amount of fraudulent benefits received.

Your disqualification period is:

☐ Six months, because this is your first offense.
☐ 12 months, because this is your second offense or the amount of fraudulent benefits you received was between $1,000 and $3,900.
☐ 18 months because this is your third offense, or the amount of fraudulent benefits you received was in excess of $3,900.
☐ Five years, because you have committed four or more previous offenses.
☐ Other *(State length of period and reason):* _____.

**Section IV: Effective Date of Disqualification**

☐ Your disqualification will begin on _____ and end on _____.
☐ You will be subject to the above disqualification penalty if you apply for and are found eligible for child care benefits at a future date.
☐ Your disqualification period will begin or resume once you are no longer participating in an activity required by TA.

**Section V: Repayment Plan Agreement**

**If you are requesting a Fair Hearing regarding this decision, you are not required to complete and sign the repayment plan at this time. However, you must complete and sign the Fair Hearing request on the reverse side of this form and return it to the address indicated.**

You are required to make full repayment by _____. If you are unable to repay the overpayment as shown below or you want to set up another agreement plan, or if you have any questions please call _____ at _____, right away. Otherwise, sign this agreement, make a copy of it for yourself, and return the agreement to the address at the bottom of this page.

**Your repayment plan is shown below**.

☐ Recovery will be made from your child care benefits. To repay this debt, you must pay $_____ each week to your child care provider. This is in addition to your current family share of $_____ per week. Effective _____, your **total family share** will be $_____per week and the amount we pay to your provider will be reduced to $_____.
☐ To repay this debt, you must pay the Department of Social Services $ _____ per week. Your first payment is due on _____. The final payment is due on _____. Send payments to:

☐ You must continue to follow the repayment plan and/or court order that is already in effect, and is attached to this notice.

**I agree to repay by this method. I understand that failure to pay the amount stated above on time will result in a discontinuation of my child care benefits and/or legal action may be taken in the court to recover this overpayment.**

_____ _____
Signature Date

**Return this repayment plan agreement to:**

**CLIENT/FAIR HEARING COPY**

**RIGHT TO A CONFERENCE**: You may have an agency conference to review these actions. A conference is when you meet with someone from the agency, other than the person who made the decision, to discuss your case. You may request an agency conference by calling the number on the front of this notice, in the upper right hand corner. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. Requesting an agency conference is not the same as requesting a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING**: If you disagree with the decision made by our agency, you may request a fair hearing. At the hearing you will have the opportunity to present written and oral evidence to demonstrate why you think the agency's decision is wrong and the action should not be taken. You have the right to be represented by legal counsel, a relative, friend or other person, or you may represent yourself. You have the right to bring witnesses and to question witnesses at the fair hearing. You have the right to present written and oral evidence at the hearing, and should bring any documents that may be helpful in presenting your case, such as this notice, pay stubs, receipts, child care bills, medical verification, letters, etc. There is additional information below on how to obtain access to your file and copies of documents in your file.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

When you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or, to represent yourself.

**TO REQUEST A FAIR HEARING:**

***Telephoning*:** **1 800-342-3334** (Please have this notice with you when you call).

***Online*:** Complete an online request form at: http://www.otda.state.ny.us/oah/forms.asp.

***Walk In Locations*:** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY.

***Writing*:** Complete the information below, sign and mail a copy of this entire notice to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. **Please keep a copy for yourself.**

***Faxing*:** Complete the information below, sign and fax this entire notice to the New York State Office of Administrative Hearings at: 518-473-6735.

☐ **I want a fair hearing. The Agency's action is wrong because:** _____

_____

_____.

☐ **I understand I may be eligible for aid continuing (current recipients only). My benefits have been stopped and I wish to have my benefits restored (aid continuing) until the hearing decision is issued.**

If you request a fair hearing and aid continuing, within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care benefits, through lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

**I do not want my benefits continued until the hearing decision is issued.**

**Signature of Client:** _____ **Date:** _____

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** You have a right to look at your case file, and to receive free copies of the documents that the agency will put into evidence and other documents necessary for you to prepare for the fair hearing. To review your file or receive copies of any documents in your file, you can call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. If you want the documents mailed to you, you must specifically ask that they be mailed. You should ask for documents ahead of time. They will be provided to you within a reasonable time before the date of the hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

NEW YORK STATE

OFFICE OF CHILDEN AND FAMILY SERVICES

Notice Date: _____ Case Number: _____

CIN Number: _____

Dear _____:

New York State requires that low-income families who are applying for or receiving child care benefits *actively pursue child support.* This is required whenever a non-custodial parent is absent from the home, unless the Department of Social Services determines you have *good cause* not to actively pursue child support. This requirement to actively pursue child support, which became effective on May 15, 2004, is necessary because:

- all children deserve support from both parents;
- child support is an important part of assisting a family to become self-sufficient; and
- by obtaining child support, more families in need of child care benefits may receive them.

You will be ineligible for child care benefits, unless you demonstrate to your child care worker that you are actively pursuing child support or you have good cause not to pursue child support. This requirement applies to all of your dependent children, even if you are not applying for child care for each child.

Enclosed with this letter is information on:

- Actively pursuing child support;
- Documenting your efforts to actively pursue child support;
- Claiming good cause not to actively pursue child support;
- Proving that good cause exists; and
- A father's rights when paternity is established.

Also enclosed is the Agreement to Actively Pursue Child Support or Good Cause Claim form, OCFS-LDSS-7011, which you should complete after you read the other enclosures. On this form you must indicate either your willingness to actively pursue child support or your inability to actively pursue child support because you are claiming good cause. **By _____, you must return the enclosed form, OCFS/LDSS-7011, and either demonstrate that you are actively pursuing child support or claim good cause not to actively pursue child support.** You have 20 days to submit proof of your good cause claim**.** If you are claiming good cause and need additional time to gather documentation, please tell your child care worker.

If you have any questions regarding the child support requirements, please call _____, at _____.

Sincerely,

_____

## Actively Pursuing Child Support

*You can actively pursue child support in the following ways:*

- Establish paternity for your child (legally determining the child's father),
- Obtain a court order of child support, and
- Get the child support owed to you.

*Things you may be required to do when actively pursuing child support include, but are not limited to:*

- Provide information to identify and locate the non-custodial parent,
- Provide information or documentation needed to establish paternity (legally determining the child's father),
- Take all actions deemed necessary for genetic testing for yourself and the child,
- Take all actions deemed necessary to establish child support orders,
- Take all actions deemed necessary to modify an existing order that does not address child care,
- Take all actions deemed necessary to enforce an existing child support order when you are not receiving the support payments as ordered,
- Appear as a party/witness at a court proceeding, and
- Provide additional information as needed or attest to the lack of information under penalty of perjury.

*You can do this by:*

- Hiring private legal counsel who will prepare and file petitions, represent you in court and work to actively pursue support,
- Doing these things on your own, or
- Applying for child support enforcement services with the Department of Social Services' Child Support Enforcement Unit (CSEU). With the exception of legal services, child support services through the CSEU are provided free of charge.

## Documenting Your Efforts

*If you do not have a court order for child support:*

- Show your child care worker that you have an appointment with or have applied for child support services from the CSEU and are actively pursuing support; or
- Submit your detailed written plan of activities and timeframes which includes the actions you or your legal representative have taken or will take to actively pursue child support, and documentation which supports these actions.

*If you have a court order for support:*

- Show your child care worker a copy of the court order for child support and evidence of child support payments, such as deposit records of child support payment checks or other payment records; OR
- Show your child care worker a copy of the court order for child support. If support is not being received, document your attempts to have the child support order enforced. Proof may include court documentation such as a copy of the violation petition, court summonses, court orders following the violation.

You must provide a report at case opening and at each recertification to show you are actively pursuing child support. Your worker may require more frequent reports depending on your case circumstances. The report must list the actions you have taken and/or will take to pursue child support, and when you expect to complete these actions. You must document the actions you describe in the report.

## Claiming Good Cause Not To Actively Pursue Child Support

You have the right to claim good cause not to actively pursue child support if pursuing child support would adversely affect your health, safety or welfare; the health, safety and welfare of the child on whose behalf child care payments are to be made; or the health, safety and welfare of other persons in the child's household. Some of the reasons that may be considered good cause include:

- Your active pursuit of child support is likely to cause physical or emotional harm to you, your child, or someone living in your household; OR
- Your child came from a pregnancy due to incest or rape; OR
- You are working with the court or an authorized adoption agency to have your child adopted.

To establish that good cause exists, you must claim good cause on the OCFS/LDSS-7011, Agreement to Actively Pursue Child Support or Good Cause Claim form and submit it to the Department of Social Services. Then, you must prove that good cause exists by providing documentation.

If you are claiming good cause, your application or recertification for child care benefits will be processed for a maximum authorization period of three months, while the good cause determination is made. The Department of Social Services will inform you of its decision on the OCFS/LDSS-7012, Notice of Good Cause Determination. If good cause is established, the authorization period will be extended to the normal six or twelve month reauthorization period.

You have the right to make a good cause claim **at any time** by telling your child care worker about your concern.

## Proving That Good Cause Exists

In addition to submitting your claim of good cause, you must prove to the Department of Social Services that good cause exists. To do this, you must explain the circumstances and provide evidence by the date it is required. If you need additional time to gather evidence, you must tell your worker. The Department of Social Services may give you up to an additional 20 days to obtain the evidence.

Examples of evidence you can give for a good cause claim include:

- Birth certificate, medical or law enforcement records which show that your child came from a pregnancy due to incest or rape;
- Court records or other records that show that a legal adoption proceeding is pending in court;
- Court, medical, criminal, child protective, social services, psychological or law enforcement records which show that the non-custodial parent might physically or emotionally harm you, the child or another household member;
- Medical records indicating that the child, custodial parent/caretaker or other household member has an emotional health history and a present emotional health status which indicates that pursuing child support would be detrimental to the mental and or emotional health of that person;

- A written statement from a public or private agency that you are being aided in a decision on whether to keep or put your child up for adoption;
- Sworn statements from individuals, other than yourself, with knowledge of the good cause circumstances. Such individuals might include friends, relatives, neighbors, clergy, social workers and medical staff. The sworn statement must attest to circumstances that indicate pursuing child support would adversely affect the health, safety or welfare of the child on whose behalf child care payments are to be made or of other person's in the child's household. It must be signed in front of and witnessed by a person who is empowered to administer an oath to the testifier. Persons authorized to administer an oath include public notaries, commissioners of deeds, judges, town justices, and justices of the peace; or
- A domestic violence waiver received while you were getting Temporary Assistance. The domestic violence waiver must be dated within the last 12 months of your application or recertification for child care.

If you need help, ask the Department of Social Services. If your good cause claim is due to physical harm, the Department of Social Services may still be able to approve your good cause claim if you cannot get the evidence.

You must submit your evidence within 20 days of completing the good cause claim. If you need additional time to get the evidence, ask your child care worker if you can be granted an extension.

Once you make a good cause claim and submit your evidence, the Department of Social Services will examine the evidence and notify you if additional evidence is needed. If you do not submit any evidence or no evidence exists, and your good cause claim is based on anticipated physical harm, the Department of Social Services may still investigate the good cause claim even without evidence, as long as you submit a sworn statement signed by an individual other than yourself and the Department of Social Services feels the sworn statement is credible.

The Department of Social Services will determine whether good cause exists based on the parent/caretaker's evidence and the investigation by the Department of Social Services, if needed. You will receive notification of the decision made by the Department of Social Services on the OCFS/LDSS-7012, Notice of Good Cause Determination.

A final good cause determination will be made within 30 days after you sign and submit the Good Cause Claim, unless the Department of Social Services allows you additional time to provide documentation. If additional time is allowed for you to submit documentation, the final determination of good cause will be made within 10 days following the extended due date.

If you do not provide the required information by the required date, you will receive a notice that the Department of Social Services intends to deny or discontinue your child care benefits because you have not actively pursued child support and have not demonstrated good cause not to pursue support.

If the Department of Social Services determines that good cause does not exist, refusal to actively pursue support will result in the Department of Social Services denying your application or closing your child care case. If this happens, you will be notified of your right to request a fair hearing to review the Department of Social Services' decision in this matter.

## A Father's Rights When Paternity is Established

Prior to establishing an order for child support it may be necessary to legally establish the child's father. This is known as establishing paternity. A court may establish paternity by naming the legal father of a child, or paternity may be established when the mother and father acknowledge a child's father by signing an acknowledgment of paternity form anytime after the child is born. Your child care worker will need to verify that the form was properly filed and the father is registered in the Putative Father Registry.

Establishing paternity provides a father legal responsibilities *and* legal rights to a child, including:

- The right to seek custody of the child;
- The right to seek visitation with the child;
- The right to take part in any adoption or foster care plans for the child;
- The right to object to any adoption or foster care placements of the child; and
- The right to inherit from the child.

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# AGREEMENT TO ACTIVELY PURSUE CHILD SUPPORT OR GOOD CAUSE CLAIM

## 1) APPLICANT/RECIPIENT INFORMATION

| NAME | PHONE | CASE NUMBER |
|---|---|---|
| ADDRESS | | |

## 2) CHILD SUPPORT REQUIREMENTS NOTIFICATION LETTER

The **Child Support Requirements Notification Letter** explains that you are **required** to actively pursue child support for your children and any child living with you, unless the Department of Social Services determines that you have "good cause" not to pursue such support. Please read the letter and make sure you understand your rights and responsibilities regarding child support, before you complete and sign this form.

*Indicate below if you have received the Child Support Requirements Notification Letter.*

☐ I have received the Child Support Requirements Notification Letter.

☐ I have not received the Child Support Requirements Notification Letter.

## 3) ACTIVE PURSUIT OF CHILD SUPPORT OR GOOD CAUSE CLAIM

Will you actively pursue child support? *Choose one.*

☐ Yes. *Complete 3A, the Agreement to Actively Pursue Child Support*.

☐ No. I cannot pursue child support as it would expose myself, my child or another household member to physical or emotional harm. *Complete 3B, the Good Cause Claim.* The Department of Social Services will inform you of its decision on the OCFS/LDSS-7012, Notice of Good Cause Determination.

### 3A) AGREEMENT TO ACTIVELY PURSUE CHILD SUPPORT

I agree to actively pursue child support. I can actively pursue child support without exposing myself, my child or anyone in my household, to physical or emotional harm.

I will actively pursue child support in the following way: *Choose one.*

☐ I will pursue child support through the Child Support Enforcement Unit (CSEU). I understand that, with the exception of legal services, CSEU services are provided free of charge. I understand I must give my child care worker a written report which includes: the actions I have taken to actively pursue child support and the documentation which confirms these actions.

☐ I will pursue support on my own behalf or hire an attorney to represent me. I understand I must give my child care worker a detailed written plan of activities and timeframes which includes the actions I (or my attorney) have taken or will take to actively pursue child support and documentation which confirms these actions. I understand if circumstances change, that I may claim good cause at any time by informing my child care worker.

### 3B) GOOD CAUSE CLAIM

I am making a Good Cause Claim. I **cannot** pursue child support for *one or more* of the following reasons:

- It would expose myself, my child or another household member to physical or emotional harm;
- The child for whom child support is sought was conceived as a result of incest or forcible rape;
- A legal proceeding for the adoption of the child is pending before a court;
- I am being assisted by a public or licensed private social agency to resolve the issue of whether I will relinquish my child for adoption; and discussions have gone on for less than 3 months; or
- The non-custodial parent's rights have been terminated or voluntarily surrendered.

*Indicate below if you have enclosed documentation of your good cause claim.*

☐ I have enclosed the following documentation (proof) of my good cause claim: _____

_____

☐ I have not enclosed documentation of my good cause claim.

I understand I have 20 days to submit proof of my good cause claim. I understand that I may ask my child care worker for additional time if the documents I need to prove my good cause claim cannot be obtained within 20 days.

## 4) CERTIFICATION

**I certify and attest that all statements made on this form are true and accurate.**

SIGNATURE OF APPLICANT/RECIPIENT

DATE

**Return this form to:**

OCFS-LDSS-7012 (3/2005) – INTERIM VER.

**ATTACHMENT H**

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF GOOD CAUSE DETERMINATION

| NOTICE DATE: | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____ |
| | | OR Agency Conference _____ |
| | | Fair Hearing information and assistance **1-800-342-3334** |
| | | Record Access _____ |
| | | Legal Assistance information _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

☐ **Good Cause Found**

The Department of Social Services has reviewed the documentation you provided and has determined that you have good cause not to actively pursue child support. Therefore, you have been granted a good cause exception from the child support requirement to actively pursue child support, which means you do not have to actively pursue child support. You are required to immediately notify your worker of any change in circumstances that may affect your good cause exception. Your good cause exception will be reassessed no later than _____.

This decision was based on 18 NYCRR 415.3(c).

☐ **Good Cause NOT Found**

☐ You have **not** been granted a good cause exception from the child support requirement. The Department of Social Services has reviewed the documentation used to support your claim of good cause and determined that you do not qualify for a good cause exception from the child support requirement.

☐ You have **not** been granted a good cause exception from the child support requirement because you did not provide evidence within 20 days of submitting the good cause claim form (or by the date required if you were granted an extension).

This decision was based on 18 NYCRR 415.3(c).

**If you think the agency's determination is incorrect, please see the information on the reverse of this form, which provides you with instructions for requesting an agency conference or fair hearing to challenge the agency's good cause exception determination.**

***If your good cause claim has been denied, please read the additional information below.***

Because your good cause claim has been denied, you must actively pursue child support to be eligible for child care benefits. Refusal to actively pursue child support, without a good cause exception, will result in the Department denying your application or closing your child care case.

**You are required to demonstrate no later than _____ that you are actively pursuing child support.**

You can actively pursue child support from the non-custodial parent through the Child Support Enforcement Unit (CSEU) or by private legal means.

- Actively pursuing a court order for child support *through the CSEU* means that you must: obtain an appointment with the CSEU, if necessary; complete the DSS-2521, Application for Child Support Services; and continue to participate in child support activities, as required.
- If pursuing a child support order *privately*, you (or your legal representative) must participate in child support activities that will lead to the establishment, modification or enforcement of court-ordered support within a reasonable period of time. You must give your child care worker a detailed written plan of activities and timeframes which includes the actions you (or your legal representative) have taken to actively pursue child support, documentation which confirms these actions; and, the actions you (or your legal representative) plan to take to actively pursue child support in the future.

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**

CLIENT/FAIR HEARINGS COPY

**RIGHT TO A CONFERENCE**: You may have an agency conference to review these actions. A conference is when you meet with someone from the agency, other than the person who made the decision, to discuss your case. You may request an agency conference by calling the number on the front of this notice, in the upper right hand corner. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. Requesting an agency conference is not the same as requesting a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING**: If you disagree with the decision made by our agency, you may request a fair hearing. At the hearing you will have the opportunity to present written and oral evidence to demonstrate why you think the agency's decision is wrong and the action should not be taken. You have the right to be represented by legal counsel, a relative, friend or other person, or you may represent yourself. You have the right to bring witnesses and to question witnesses at the fair hearing. You have the right to present written and oral evidence at the hearing, and should bring any documents that may be helpful in presenting your case, such as this notice, pay stubs, receipts, child care bills, medical verification, letters, etc. There is additional information below on how to obtain access to your file and copies of documents in your file.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

When you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or, to represent yourself.

**TO REQUEST A FAIR HEARING:**

***Telephoning:*** **1 800-342-3334** (Please have this notice with you when you call).

***Online:*** Complete an online request form at: http://www.otda.state.ny.us/oah/forms.asp.

***Walk In Locations:*** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY.

***Writing:*** Complete the information below, sign and mail a copy of this entire notice to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. **Please keep a copy for yourself.**

***Faxing:*** Complete the information below, sign and fax this entire notice to the New York State Office of Administrative Hearings at: 518-473-6735.

☐ **I want a fair hearing. The Agency's action is wrong because:** _____

_____

_____.

☐ **I understand I may be eligible for aid continuing (current recipients only). My benefits have been stopped and I wish to have my benefits restored (aid continuing) until the hearing decision is issued.**

If you request a fair hearing and aid continuing, within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care benefits, through lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued until the hearing decision is issued.**

**Signature of Client:** _____ **Date:** _____

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** You have a right to look at your case file, and to receive free copies of the documents that the agency will put into evidence and other documents necessary for you to prepare for the fair hearing. To review your file or receive copies of any documents in your file, you can call us at the Record Access telephone number listed at the top of page one of this notice or write us at the address printed at the top of page 1 of this notice. If you want the documents mailed to you, you must specifically ask that they be mailed. You should ask for documents ahead of time. They will be provided to you within a reasonable time before the date of the hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get copies of documents, call us at the telephone numbers listed at the top of page one of this notice or write to us at the address printed at the top of page one of this notice.

# 14-OCFS-LCM-18
# *Guidelines and Instructions for Preparing the Child and Family Services Plan Update*

The purpose of this Local Commissioners Memorandum (LCM) is to provide guidance to local departments of social services (LDSS) for the completion of the required Annual Plan Update (APU) for the county Child and Family Services Plan (CFSP). These guidelines are also being shared with county youth bureaus and county probation departments. The APU is due January 31, 2015. Through this APU, counties will report on any changes being implemented in their current CFSP, and make any necessary changes to the CFSP for the remaining period of their plan. County youth bureaus and local departments of social services (LDSS) are required by statute to develop and submit to New York State local multi-year plans for the provision of services and the allocation of resources, including the required Persons in Needs of Supervision (PINS) Diversion Plan that is developed by LDSSs, county youth bureaus, and county probation departments.

See http://www.ocfs.state.ny.us to view current county Child and Family Services Plans and Annual Plan Updates

See http://ocfs.state.nyenet/cfsp/login.asp to view the current Child and Family Services Plan, instructions, and log-in for templates

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-18 |
| **To:** | Local Social Services District Commissioners<br>Directors of Services<br>Youth Bureau Directors<br>County Probation Directors |
| **Issuing Division/Office:** | Child Welfare and Community Services |
| **Date:** | November 10, 2014 |
| **Subject:** | **Guidelines and Instructions for Preparing the Child and Family Services Plan Update** |
| **Contact Person(s):** | See Technical Assistance Contacts on Page 3 |
| **Attachments:** | No |
| **Attachment Available Online:** | **Child and Family Services Plan, instructions and log-in for templates**. This website is not available to the public. Appropriate permission is required to access the site: http://ocfs.state.nyenet/cfsp/login.asp |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to provide guidance to local departments of social services (LDSS) for the completion of the required Annual Plan Update (APU) for the county Child and Family Services Plan (CFSP). These guidelines are also being shared with county youth bureaus and county probation departments. The APU is due January 31, 2015. Through this APU, counties will report on any changes being implemented in their current CFSP, and make any necessary changes to the CFSP for the remaining period of their plan. County youth bureaus and local departments of social services (LDSS) are required by statute to develop and submit to New York State local multi-year plans for the provision of services and the allocation of resources, including the required Persons in Needs of Supervision (PINS) Diversion Plan that is developed by LDSSs, county youth bureaus, and county probation departments.

## II. Background

The county planning process is designed to promote the following principles and objectives:

- Support and acknowledge a local collaborative planning process that includes broad stakeholder involvement;
- Encourage a planning process that has meaning and utility locally, while preserving accountability to state and federal requirements;
- Clarify required planning expectations for counties;
- Support a process that focuses on outcomes for children, youth, families, adults and communities;
- Support the important respective administrative roles and responsibilities of county youth bureaus and departments of social services; and
- Streamline and improve the design of each county's plan.

## III. Program Implications

***Local departments of social services are required to submit the APU electronically using the Appendix templates that can be found on the Office of Children and Family Services (OCFS) intranet site under the Child and Family Services Plan page. To access the CFSP appendix templates and the instructions directly, use the following link:*** http://ocfs.state.nyenet/cfsp/login.asp

The Appendix templates are now stand-alone templates and must be used to record any changes to your county plan. There are several Appendix templates that are required to be updated annually; they are listed below.

Required Appendices include:

- Table of Contents
- Signature/Attestation/Waiver – Appendix A
- Plan Program Narrative
- Program Matrix – Appendix F
- Persons in Need of Supervision (PINS) Diversion Services – Appendix V

All other Appendix templates are only submitted if changes are being made to the existing five-year plan.

**The narrative sections for the Program Narrative and Appendix V - Persons in Need of Supervision (PINS) Diversion Services will be populated with the narrative from last year's plan for your reference.**

You are required to provide an update for each program area in the Plan Program Narrative Section. **The updates must be bolded.** You should include a description of what has transpired over the past year, what outcomes you have reached, what outcomes you are planning for in the upcoming year, and an update on the strategies you have implemented (i.e., Are they effective? Will you continue with them? Will you eliminate them?), and on what new strategies you will be implementing to improve the outcomes for each program area.

If you are proposing amendments to your plan that reduce services, change fees, or change eligibility standards, you must publish the amendment for public comment and present it to your local advisory council prior to submitting the APU. You must then include a description of the plan amendment and the public participation process in the Plan Program Narrative. You do not need to complete Appendix E – Public Hearing for the APU although OCFS reserves the right to require that a public hearing be held in cases of significant program change.

The layout of the Plan Program Narrative has been revised to allow for ease of use. It is now organized by program area, (Child Protective, Foster Care, Adoption, etc.); under each program area please record the self-assessment, outcomes, and strategies that apply to that area.

All annually required Appendix templates and as well as any other templates with updates are due to OCFS by January 31, 2015. Each county is required to electronically submit its APU. Hard copies are no longer necessary. The original signed signature page should be maintained by the county in its records with a copy being sent to your OCFS Regional Office.

**Technical Assistance Contacts**

Staff from the Regional Offices and program areas listed below is available to assist you.

**Regional Office – Child Welfare and Community Services (CWCS)**
BRO - Dana Whitcomb, (716) 847-3145; Dana.Whitcomb@ocfs.ny.gov
RRO - Karen Buck, (585) 238-8201; Karen.Buck@ocfs.ny.gov
SRO - Sara Simon, (315) 423-1200; Sara.Simon@ocfs.ny.gov
ARO - Kerri Barber, (518) 486-7078; Kerri.Barber@ocfs.ny.gov
NYCRO - Ray Toomer, (212) 383-1808; Raymond.Toomer@ocfs.ny.gov
SVRO - Yolanda Desarme, (845) 708-2498; Yolanda.Desarme@ocfs.ny.gov

Questions on content areas may be directed to:
- Child Care – Michael A. Miller, (518) 408-3395; Michael.Miller@ocfs.ny.gov
- Domestic Violence – Pamela Jobin, (518) 402-6766; Pamela.Jobin@ocfs.ny.gov
- Adult Services – Paula Vielkind, (518) 474-9590; Paula.Vielkind@ocfs.ny.gov
- PINS – Robert Dick, (518) 474-3475; Robert.Dick@ocfs.ny.gov
- Youth Development – Matt Beck (518) 402-3296; Matt.Beck@ocfs.ny.gov
- IT System Issues – Tim Griswold, (518) 402-6675; Timothy.Griswold@ITS.ny.gov

*/s/ Laura M. Velez*

**Issued By:**
Name: Laura M. Velez
Title: Deputy Commissioner
Division/Office: Child Welfare and Community Services

# Instructions

This document is “text protected.” That means that you can enter text only in the highlighted areas, which in most cases will appear as gray or blue boxes. It also means that you cannot change the layout, add pages to the document from other files, or search and replace text.

You can change the “view” of the document by zooming in or out.

To enter information, place the cursor inside a highlighted box and click once. As you type, the box will expand to include your entire text. You are able to edit or delete text, copy, cut, or paste text from one highlighted box to another.

On some pages, you will be instructed to select check boxes. To do this, place the cursor in the box and click.

The entire plan should be completed using the electronic County Plan document and be sent via e-mail. The following must be sent as separate documents in the same e-mail:

- Appendix A (signature page): Fill in the name of the county in the spaces indicated. Then print out the page so it can be signed by the appropriate officials. Scan it and send it via e-mail along with your plan or you may fax the page to 518-474-9452, attention Kristin Gleeson.
- Appendix H (Memorandum of Understanding Between the District Attorney’s Office and Child Protective Services): This must be sent as an electronic document with your Plan, or you may include a narrative on the page provided.

**Note:** Because the document is protected, you will not be able to use the direction (arrow) keys, the “Page Down” key, or the “Page Up” key to move around in the document. Use the slide bar on the right side of the document window.

If you need help working with the form, please contact Welfare Research Incorporated at 518-432-2563 or e-mail mnwebber@welfareresearch.org.

# County Child and Family Services Plan

**January 1, 2012 – December 31, 2016**

County

This Child and Family Services Plan contains county outcomes and strategies that respond to community needs. Specifically, the plan identifies Local Department of Social Services (districts) strategies in the areas of adoption, foster care, preventive, protective and other services for children, and protective and other services for adults. The plan also identifies Youth Bureau strategies for youth development and services for youth. In addition, it contains a description of public participation in the development of the Plan as well as estimates of expenditures and program information.

| | |
|---|---|
| | (  )  - |
| Contact Person | Phone |
| | |
| Title | Email |

## TABLE OF CONTENTS

Page Number

Appendix A .....
Appendix B-1.....
Appendix B-2.....
Appendix B-3.....
Appendix B-4.....
Appendix B-5.....
Appendix B-6.....
Appendix C .....
Program Narrative.....
Appendix D.....
Appendix E .....
Appendix F.....
Appendix G.....
Appendix H.....
Appendix I .....
Appendix J .....
Appendix K.....
Appendix L .....
Appendix M .....
Appendix N.....
Appendix O.....
Appendix P.....
Appendix Q.....
Appendix R .....
Appendix S.....
Appendix T .....
Appendix U.....
Appendix V.....

# APPENDIX A
Plan Signature Page

We hereby approve and submit the Child and Family Services Plan for County Department of Social Services and Youth Bureau for the period of January 1, 2012, through December 31, 2016. **We also attest to our commitment to maintain compliance with the Legal Assurances as outlined in Child and Family Services Plan Guidance Document**.

| | | | |
|---|---|---|---|
| **Commissioner**<br>County Department of Social Services | **Date** | **Executive Director**<br>County Youth Bureau | **Date** |

| | |
|---|---|
| **Chair**<br>County Youth Board | **Date** |

I hereby approve and submit the PINS Diversion Service section of the Child and Family Services Plan for County Probation Department for the period of January 1, 2012, through December 31, 2016.

| | | | |
|---|---|---|---|
| **Director/Commissioner**<br>County Probation Department | **Date** | **Chair**<br>County Youth Board | **Date** |

Enclosed is the Child and Family Services Plan for County. My signature below constitutes approval of this report.

| | |
|---|---|
| **Chief Elected Officer**<br>(or Chairperson of the legislative body<br>if the county does not have Chief Elected Officer) | **Date** |

## WAIVER

Complete and sign the following section if a waiver is being sought concerning the submission of Appendix I - Estimate of Clients to be served.

County requests a waiver to 18 NYCRR 407.5(a)(3), which requests a numerical estimate of families, children, and adults requiring each service listed in Section 407.4 of this same Part. Therefore, Appendix I is not included in this Plan submission. I assert that the level of service need and utilization for the full array of services encompassed by the Child and Family Services Planning Process was taken into consideration as part of the County Child and Family Services Planning Process.

| | |
|---|---|
| **Commissioner**<br>County Department of Social Services | **Date** |

## APPENDIX B-1

List of Required Interagency Consultation – Protective Services for Adults

In the development of the Protective Services for Adults component of the Annual Implementation Report, Section 34-a (4) and Sections 473(2) (a) and (b) of the State Social Services Law requires that districts consult with other appropriate public, private and voluntary agencies in order to ensure maximum local understanding, coordination, and cooperative action in the provision of appropriate services to protective services clients. These include, but are not limited to: aging, health, mental health, legal and law enforcement agencies. List the interagency consultation in the chart provided below:

| Agency Type | Agency Name | Dates or Frequency of Meetings* |
|---|---|---|
| Aging | | |
| | | |
| | | |
| | | |
| Health | | |
| | | |
| | | |
| | | |
| Mental Health | | |
| | | |
| | | |
| | | |
| Legal | | |
| | | |
| | | |
| | | |
| Law Enforcement | | |
| | | |
| | | |
| | | |
| Other: | | |
| | | |

*List either dates of meetings or frequency (e.g., every third Wednesday of the month)

Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

## APPENDIX B-2

List of Required Interagency Consultation – Child Protective Services

In the development of the Child Protective Services component of the Annual Implementation Report, Section 34-a(4) and Section 423 of the State Social Services Law requires that districts consult with local law enforcement agencies, the family court, and appropriate public and voluntary agencies including the societies for the prevention of cruelty to children. The family court judge or designated representative must be involved when the family court is consulted. List the interagency consultation in the chart provided below.

| Agency Type | Agency Name | Dates or Frequency of Meetings* |
|---|---|---|
| Law Enforcement | | |
| | | |
| | | |
| | | |
| | | |
| Family Court (judge or designee) | | |
| | | |
| | | |
| | | |
| | | |
| PINS Diversion lead agency | | |
| | | |
| | | |
| | | |
| | | |
| Public/Private Agencies | | |
| | | |
| | | |
| | | |
| | | |

*List either dates of meetings or frequency (e.g., every third Wednesday of the month)

Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

## APPENDIX B-3

List of Required Interagency Consultation – Child Welfare Services

In the development of the Preventive, Foster Care, and Adoption Services for children component of the Annual Implementation Report, Section 34-a(4) and 409-d of the State Social Services Law requires that districts consult with other government agencies, authorized agencies, and other individuals and organizations concerned with the welfare of children residing in the district. List the interagency consultation in the chart provided below.

| Agency Type | Agency Name | Dates or Frequency of Meetings* |
|---|---|---|
| Government Agencies | | |
| | | |
| | | |
| | | |
| | | |
| Authorized Agencies | | |
| | | |
| | | |
| | | |
| | | |
| Concerned Individuals/Groups | | |
| | | |
| | | |
| | | |
| | | |

*List either dates of meetings or frequency (e.g., every third Wednesday of the month)

Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

## APPENDIX B-4

List of Required Interagency Consultation – Child Care Services

Section 34-a(4) and 409-d of the State Social Services Law requires that, in the development of the Child and Family Services Plan, districts must consult with other government agencies, authorized agencies, and other individuals and organizations concerned with the welfare of children residing in the district. List the interagency consultation in the chart provided below.

| Agency Type | Agency Name | Dates or Frequency of Meetings* |
|---|---|---|
| Government Agencies | | |
| | | |
| | | |
| | | |
| | | |
| Other Public/Private/Voluntary Agencies | | |
| | | |
| | | |
| | | |
| | | |
| Concerned Individuals/Groups | | |
| | | |
| | | |
| | | |
| | | |
| Child Care Resource and Referral Agencies | | |
| | | |
| | | |
| | | |
| | | |

*List either dates of meetings or frequency (e.g., every third Wednesday of the month)

Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

## APPENDIX B-5*

List of Required Interagency Consultation – Runaway and Homeless Youth

List the interagency consultation in the chart provided below.

| Agency Type | Agency Name |
|---|---|
| Department of Social Services | |
| | |
| | |
| | |
| | |
| RHYA Providers | |
| | |
| | |
| | |
| | |
| Other Public, Private and/or Voluntary Agencies | |
| | |
| | |
| | |
| | |

*This Appendix is required only if the county receives RHYA funding.

## APPENDIX B-6

List of Required Interagency Consultation – Youth Development

List the interagency consultation in the chart provided below.

| Agency Type | Agency Name | Dates or Frequency of Meetings* |
|---|---|---|
| Taskforce | | |
| | | |
| | | |
| Coalition | | |
| | | |
| | | |
| Youth Board | | |
| | | |
| | | |
| Parent | | |
| | | |
| | | |
| Youth | | |
| | | |
| | | |
| Community Providers | | |
| | | |
| | | |
| Municipal Youth Board | | |
| | | |
| | | |

*List either dates of meetings or frequency (e.g., every third Wednesday of the month)

Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

## APPENDIX C
List of Data Sources Used In Needs Assessment

**Instructions:** The list below contains common data sources often used in county planning. Please check all sources your county has used in the needs assessment performed for this plan. The list is not all-inclusive – if you have other sources of data, please indicate those as well.

| Source | Check all used |
|---|---|
| 1. NYS Touchstones Kids County Data Book | ☐ |
| 2. Kid's Well-being Indicators Clearinghouse | ☐ |
| 3. Monitoring and Analysis Profiles | ☐ |
| 4. Child Care Review Service | ☐ |
| 5. U.S. Census Data | ☐ |
| 6. OCFS Data Warehouse Reports | ☐ |
| 7. OCFS CFSR Data Packets | ☐ |
| 8. Adult Services Automation Project (ASAP) | ☐ |
| 9. Quality Youth Development System (QYDS) | ☐ |
| 10. Child Trends Data Bank | ☐ |
| 11. Prevention Risk Indicator/Services Monitoring System-PRISMS (OASAS) | ☐ |
| 12. NYS Department of Health | ☐ |
| 13. Surveys | |
| a. Communities That Care | ☐ |
| b. Search Institute Survey | ☐ |
| c. TAP Survey | ☐ |
| d. United Way (Compass Survey or other) | ☐ |
| e. Other (specify) | ☐ |
| 14. YASI Data | ☐ |
| Other Data Sources (specify) | |
| 15. | ☐ |
| 16. | ☐ |
| 17. | ☐ |
| 18. | ☐ |

## Child and Family Services Plan Program Narrative

### I. Outcome Framework/Mission/Vision

1. If the district has one, please enter the district's outcome framework, mission, and/or vision. (If your district does not have this, leave this area blank.)

2. Describe your district's demographic, economic, and social characteristics.

### II. Planning Process

1. Describe the district's planning process and how that consultation informed your district's needs assessment, priorities, and outcomes.

### III. Self Assessment

1. Describe successes and achievements the district has experienced since the last plan update in each of the program areas listed below.

| | |
|---|---|
| Child Protective Services | |
| Child Preventive Services | |
| Foster Care | |
| Adoption | |
| Detention | |
| Youth Development | |
| Runaway & Homeless Youth | |
| Domestic Violence | |
| Adult Protective Services | |
| Child Care | |

3. Noting the data and trends as identified in Appendix C; and the cumulative district consultations (Appendices B-1 to B-6), describe the underlying conditions or factors that influence your performance in meeting the needs of children, youth, adults and families (as applicable) in each of the following program areas:

| | |
|---|---|
| Child Protective Services | |
| Child Preventive Services | |
| Foster Care | |
| Adoption | |
| Detention | |
| Youth Development | |
| Runaway & Homeless Youth | |
| Domestic Violence | |
| Adult Protective Services | |

| | |
|---|---|
| Child Care | |

## IV. Priority Program Areas

From the Self Assessment in Section III, please identify the program areas that the district has determined to be priorities.

## V. Outcomes

**1.** Outcomes are based on the district's performance as identified through the data and trends noted in the Self Assessment. Outcomes should be expressed as desired changes within each program area to address the underlying conditions or factors as noted in the district's self assessment. The outcomes must also be related to the use of OCFS funding, and/or required areas of services by the social services district and Youth Bureau. If the county receives RHYA funding, outcomes and strategies must be included and should address the coordination of available resources for runaway and homeless youth. Districts may incorporate outcomes from their Child and Family Services Review Program Improvement Plans. Districts are required to address at least two of the following State-determined adult service goals.

**a.** Impaired adults who self-neglect or are abused, neglected, or exploited by others will be identified, have their living situation thoroughly investigated, and be protected.

**b.** To pursue appropriate legal interventions to address situations where impaired adults are at risk of harm, are unable to make informed decisions, and are refusing necessary services.

**c.** To utilize multi-disciplinary community resources to improve assessments as well as develop service plans which reduce risk and protect adults.

**d.** To provide protective services in the least restrictive manner, respecting the adult's rights to self-determination and decision-making.

List the district's outcomes for each program area below:

| | |
|---|---|
| Child Protective Services | |
| Child Preventive Services | |
| Foster Care | |
| Adoption | |
| Detention | |
| Youth Development | |
| Runaway & Homeless Youth | |
| Domestic Violence | |
| Adult Protective Services | |
| Child Care | |

2. Identify quantifiable indicators (measures) of the desired changes in order to track progress.

| | |
|---|---|
| Child Protective Services | |
| Child Preventive Services | |
| Foster Care | |
| Adoption | |
| Detention | |
| Youth Development | |
| Runaway & Homeless Youth | |
| Domestic Violence | |
| Adult Protective Services | |
| Child Care | |

## VI. Strategies to Achieve Outcomes

1. Describe strategies that will be implemented to achieve the identified outcomes, including those strategies that support your Child and Family Services PIP outcomes. Each strategy should include the timeframe for completion and a designation of what agency(ies) or department(s) is/are responsible for implementation. Explain how OCFS-administered funding supports achievement of outcomes. Strategies must be related to the achievement of outcomes. If the county receives RHYA state aid, the strategies must provide for the coordination of all available county resources for those populations.

| | |
|---|---|
| Child Protective Services | |
| Child Preventive Services | |
| Foster Care | |
| Adoption | |
| Detention | |
| Youth Development | |
| Runaway & Homeless Youth | |
| Domestic Violence | |
| Adult Protective Services | |
| Child Care | |

## VII. Plan Monitoring

1. Describe the methods and the processes that will be used by the district to verify and monitor the implementation of the Child and Family Services Plan and the achievement of outcomes.

## VIII. Financing Process

1. Describe the financing for the district's services.

**a.** Include general information about the types if funds used (e.g. federal, State, local, TANF, or innovative funding approaches). Include new uses of TANF or Flexible Funds for Family Services for program services. Include any innovative approaches to funding or new uses of funds to support the service delivery system.

**b.** If purchase of service agreements are used, describe the criteria and procedures used by the district for selecting providers for all child welfare, adult protective, and non-residential domestic violence purchase of services (e.g. RFP process, news releases on availability of funds, sister agencies panel).

**2.** Describe how purchase service contracts will be monitored.

**a.** Describe procedures that will be used to ensure that the services being purchased are effective in meeting the outcomes as outlined in the contract and your plan. Include the frequency of monitoring, tools that will be used, and who will be involved.

# APPENDIX D

## Relationship Between County Outcomes and Title IV-B Federal Goals

List each district outcome that supports or relates to achievement of the federal goals identified below. Many of your outcomes are listed under your Child and Family Services Review PIP, and should be included here.

### Title IV-B of the Social Security Act, Subpart I

**Goal 1:** Families, including nuclear, extended, and adoptive families, will be strengthened and supported in raising and nurturing their children; in maintaining their children's connections to their heritage; and in planning their children's future.

Outcomes:

**Goal 2:** Children who are removed from their birth families will be afforded stability, continuity, and an environment that supports all aspects of their development.

Outcomes:

**Goal 3:** Victims of family violence, both child and adult, will be afforded the safety and support necessary to achieve self-sufficiency (adult) and/or to promote their continued growth and development (child).

Outcomes:

**Goal 4:** Adolescents in foster care and pregnant, parenting, and at-risk teens in receipt of public assistance will develop the social, educational, and vocational skills necessary for self-sufficiency.

Outcomes:

**Goal 5:** Native American families, including nuclear, extended, and adoptive families, will be strengthened and supported in raising and nurturing their children; in maintaining their children's connections to their heritage; and in planning their children's future.

Outcomes:

## APPENDIX E
Public Hearing Requirements

Complete the form below to provide information on the required elements of the public hearing.

Date Public Hearing held: (at least 15 days prior to submittal of Plan)

Date Public Notice published: (at least 15 days in advance of Public Hearing)

Name of Newspaper:

Number of Attendees:

Areas represented at the Public Hearing:

| | | |
|---|---|---|
| ☐ Health | ☐ Legal | ☐ Child Care |
| ☐ Adolescents | ☐ Mental Health | ☐ Law Enforcement |
| ☐ Aging | ☐ General Public | |
| ☐ Other: | ☐ Other: | ☐ Other: |

Issues identified at the Public Hearing:

# APPENDIX F
## Program Matrix

Each district will enter their Program Information into the Welfare Management System (WMS). Instructions for completing this process are located in the Plan Guidance Document. Answer the questions below related to the information you entered into the WMS system.

**1.** Are there changes to the services your county intends to provide during the County Planning cycle?

☐ No ☐ Yes

**2.** If there are changes to the services, please indicate what those changes are.

## APPENDIX G
Technical Assistance Needs

In the space below, describe technical assistance or training, if any, requested by the district to implement this plan. Please be as specific as possible.

## APPENDIX H

Memorandum of Understanding
Between the District Attorney's Office and Child Protective Services

Chapter 156 of the Laws of 2000 (the Abandoned Infant Protection Act) went into effect in July 2000, and was **amended effective August 30, 2010**. This law is intended to prevent infants from being abandoned in an unsafe manner that could result in physical harm to them. Please send an electronic copy of your signed MOU with your County Plan or include a narrative summary of the cooperative procedures to be followed by both parties in the investigation of incidents of child abuse and maltreatment, consistent with their respective obligations for the investigation or prosecution of such incidents, or as otherwise required by law.

☐ Copy of active MOU is being sent with the County Plan.

☐ Active MOU is not attached, but a narrative summary is provided below.

**Narrative Summary:**

## APPENDIX I

2012 Estimates of Persons to Be Served

Required only if the district does not seek a waiver, as noted on Appendix A

| Type of Care/Service | Total* | Children | Adults |
|---|---|---|---|
| Adoption | | | |
| Child Care | | | |
| Domestic Violence | | | |
| Family Planning | | | |
| Preventive Child Mandated | | | |
| Preventive Child Non-Mandated | | | |
| Child Protective Services | | | |
| Child Protective Services Investigation | | | |
| Unmarried Parents | | | |
| Preventive – Adults | | | |
| Protective Services Adults – Services | | | |
| Protective Services Adults – Investigation | | | |
| Social Group Services Senior Citizens | | | |
| Education | | | |
| Employment | | | |
| Health Related | | | |
| Home Management | | | |
| Homemaker | | | |
| Housekeeper/Chore | | | |
| Housing Improvement | | | |
| Information and Referral | | | |
| Transportation | | | |

*Total equals children plus adults

| Type of Care/Service — Foster Care | Total | Non JD/PINS Child | OCFS JD/PINS Child | DSS JD/PINS Child |
|---|---|---|---|---|
| Institutions | | | | |
| Group Homes/Residences | | | | |
| Agency Operated Boarding Homes | | | | |
| Family Foster Care | | | | |
| Unduplicated Count of All Children in Care | | | | |

| Type of Care/Service – Adult | Total | Adults |
|---|---|---|
| Residential Placement Services | | |

# APPENDIX J

Non-Residential Domestic Violence Services (Complete a Copy for Each Program)

In accordance with the Domestic Violence Prevention Act and subsequent budget provisions, districts are required to provide non-residential services to victims of domestic violence, either directly or through a purchase of service agreement. Whether provided directly or through a purchase of service, each program must be approved through the Child and Family Services Plan process. Non-residential domestic violence programs must comply with 18 NYCRR Part 462. Please provide the information required below.

County: Phone Number: ( ) -

County Contact Person: E-mail Address:

## SECTION A

### Program Closure

Complete this section if an approved non-residential domestic violence program "closed" during the previous year.

Name of program:

Date closed:

Reason for closing:

## SECTION B

Complete this section for each program that provides non-residential domestic violence services in the district.

To promote accuracy through the review and approval process, OCFS recommends that this section be completed by the non-residential DV program.

Agency Name:

Business Address:

Contact Person:

Telephone Number: ( ) -

E-mail Address:

### Program Requirements

1. Seventy percent of the clientele served must consist of victims of domestic violence and their children. This program is intended to be a separate and distinct program offering specialized services for victims of domestic violence.

   Describe how the program is separate and distinct and how it fits into the overall agency.

2. Services must be provided regardless of financial eligibility; services must be provided in a manner that addresses special needs, including physically handicapped, hearing

impaired, and non-English speaking; and services must address the ethnic compositions of the community served.

Describe the eligibility criteria for clients of the non-residential domestic violence program and how special needs populations are accommodated.

**3.** There must be evidence that the program is needed, based on the number of persons to be served and evidence that the indicators used are realistic.

Provide an estimate of the number of victims of domestic violence needing non-residential services and description of the indicator/data used to determine that estimate.

**4.** Where are the non-residential domestic violence services provided?

Describe the type of location (e.g.at the business office, at the school, etc.). The specific should not be included and should not be identifiable from the information provided.

**5.** Explain how the location(s) where the non-residential domestic violence services are provided to ensure the safety of the persons receiving services and the confidentiality of their identities. Do not provide the location addresses.

**6.** All of the **core services** listed in 18 NYCRR 462.4 must be provided directly by the program, as defined in the regulations, and must be provided in a timely manner. For each of the core services listed below, include:

**a.** Days and hours the service is available

**b.** How the service is provided

**c.** Where the service is provided, when the service is provided at a location other than the program location (i.e., accompanying the client to court)

**d.** Details specific to this program other than program location.

### Telephone Hotline Assistance

Include hotline operation hours and detail the methods currently being used for the operation of the hotline service (e.g. coverage, staff responsibility, any technology used).

### Information and referral

**Advocacy**

Describe all types offered, including accompaniment.

**Counseling**

Describe all types offered, including individual and group.

**Community Education and Outreach**

Describe methods used, target audience, and messages conveyed. If there is more than one domestic violence provider in the community, describe how the outreach activities are coordinated.

**Optional Services** (e.g., support groups, children's services, translation services, etc.)

**7.** Each program must employ both a qualified director and a sufficient number of staff who are *responsible for providing core and optional services.*

List each of the staff/volunteer positions responsible for providing non-residential services including title, responsibilities and qualifications.

- **Do not** give names
- Resumes **are not** required

Title:

Responsibilities:

Qualifications:

---

Title:

Responsibilities:

Qualifications:

---

Title:

Responsibilities:

Qualifications:

Title:

Responsibilities:

Qualifications:

Title:

Responsibilities:

Qualifications:

Title:

Responsibilities:

Qualifications:

## COUNTY – CFSP 2012-2016
## APPENDIX K
### Child Care Administration

Describe how your local district is organized to administer the child care program, including any functions that are subcontracted to an outside agency.

**1.** Identify the unit that has primary responsibility for the administration of child care for:

Public Assistance Families:

Transitioning Families:

Income Eligible Families:

Title XX:

**2.** Provide the following information on the use of New York State Child Care Block Grant (NYSCCBG) Funds.

FFY 2009-2010 Rollover funds (available from the NYSCCBG ceiling report in the claiming system: .....$

Estimate FFY 2010-11 Rollover Funds .....$

Estimate of Flexible Funds for Families (FFS) for child care subsidies.....$

NYSCBG Allocation 2011-12 .....$

Estimate of Local Share .....$

**Total Estimated NYSCCCBG Amount** .....$

**a.** Subsidy .....$

**b.** Other program costs excluding subsidy .....$

**c.** Administrative costs ..... $

**3.** Does your district have a contract or formal agreement with another organization to perform any of the following functions?

| Function | Organization | Amount of Contract |
|---|---|---|
| ☐ Eligibility screening | | |
| ☐ Determining if legally-exempt providers meet State-approved additional standards | | |
| ☐ Assistance in locating care | | |
| ☐ Child Care Information Systems | | |
| ☐ Other | | |

## APPENDIX L

Other Eligible Families if Funds are Available (Required)

Listed below are the optional categories of eligible families that your district can include as part of its County Plan. Select any categories your county wants to serve using the NYSCCBG funds and describe any limitations associated with the category.

| Optional Categories | Option | Limitations |
|---|---|---|
| 1. Public Assistance (PA) families participating in an approved activity in addition to their required work activity. | ☐ Yes<br>☐ No | |
| 2. PA families or families with income up to 200% of the State Income Standard when the caretaker is: | | |
| a) participating in an approved substance abuse treatment program | ☐ Yes<br>☐ No | |
| b) homeless | ☐ Yes<br>☐ No | |
| c) a victim of domestic violence | ☐ Yes<br>☐ No | |
| d) in an emergency situation of short duration | ☐ Yes<br>☐ No | |
| 3. Families with an open child protective services case when child care is needed to protect the child. | ☐ Yes<br>☐ No | |
| 4. Families with income up to 200% of the State Income Standard when child care services are needed because the child's caretaker: | | |
| a) is physically or mentally incapacitated | ☐ Yes<br>☐ No | |
| b) has family duties away from home | ☐ Yes<br>☐ No | |
| 5. Families with income up to 200% of the State Income Standard when child care services are needed for the child's caretaker to actively seek employment for a period up to six months. | ☐ Yes<br>☐ No | |
| 6. PA families where a sanctioned parent is participating in unsubsidized employment, earning wages at a level equal to or greater than the minimum amount under law. | ☐ Yes<br>☐ No | |

| | | |
|---|---|---|
| 7. Families with income up to 200% of the State Income Standard when child care services are needed for the child's caretaker to participate in: | | |
| a) a public or private educational facility providing a standard high school curriculum offered by or approved by the local school district | ☐ Yes<br>☐ No | |
| b) an education program that prepares an individual to obtain a NYS High School equivalency diploma | ☐ Yes<br>☐ No | |
| c) a program providing basic remedial education in the areas of reading, writing, mathematics, and oral communications for individuals functioning below the ninth month of the eighth grade level | ☐ Yes<br>☐ No | |
| d) a program providing literacy training designed to help individuals improve their ability to read and write | ☐ Yes<br>☐ No | |
| e) English as a second language (ESL) instructional program designed to develop skills in listening, speaking, reading, and writing the English language for individuals whose primary language is other than English | ☐ Yes<br>☐ No | |
| f) a two-year full-time degree granting program at a community college, a two-year college, or an undergraduate college with a specific vocational goal leading to an associate degree or certificate of completion | ☐ Yes<br>☐ No | |
| g) a training program, which has a specific occupational goal and is conducted by an institution other than a college or university that is licensed or approved by the State Education Department | ☐ Yes<br>☐ No | |
| h) a prevocational skill training program such as a basic education and literacy training program | ☐ Yes<br>☐ No | |
| i) a demonstration project designed for vocational training or other project approved by the Department of Labor<br>**Note:** The parent/caretaker must complete the selected programs listed under number seven within 30 consecutive calendar months. The parent/caretaker cannot enroll in more than one program. | ☐ Yes<br>☐ No | |
| 8. PA recipients and low-income families with incomes up to 200% of the State Income Standard | ☐ Yes<br>☐ No | |

| | | |
|---|---|---|
| who are satisfactorily participating in a two-year program other than one with a specific vocational sequence (leading to an associate's degree or certificate of completion and that is reasonably expected to lead to an improvement in the parent/caretaker's earning capacity) as long as the parent(s) or caretaker is also working at least 17½ hours per week. The parent/caretaker must demonstrate his or her ability to successfully complete the course of study. | | |
| 9. PA recipients and low-income families with incomes up to 200% of the State Income Standard who are satisfactorily participating in a two-year college or university program (other than one with a specific vocational sequence) leading to an associate's degree or a certificate of completion that is reasonably expected to lead to an improvement in the parent/caretaker's earning capacity as long as the parent(s) or caretaker is also working at least 17½ hours per week. The parent/caretaker must demonstrate his or her ability to successfully complete the course of study. | ☐ Yes<br>☐ No | |
| 10. PA recipients and low-income families with incomes up to 200% of the State Income Standard who are satisfactorily participating in a four-year college or university program leading to a bachelor's degree and that is reasonably expected to lead to an improvement in the parent/caretaker's earning capacity as long as the parent(s) or caretaker is also working at least 17½ hours per week. The parent/caretaker must demonstrate his or her ability to successfully complete the course of study. | ☐ Yes<br>☐ No | |
| 11. Families with incomes up to the 200% of the State Income Standard when child care services are needed for the child's caretaker to participate in a program to train workers in an employment field that currently is or is likely to be in demand in the future, if the caretaker documents that he or she is a dislocated worker and is currently registered in such a program, provided that child care services are only used for the portion of the day the caretaker is able to document is directly related to the caretaker engaging in such a program. | ☐ Yes<br>☐ No | |

# APPENDIX M

## Reasonable Distance, Very Low Income, Family Share, Case Closing and Openings, Recertification Period, Fraud and Abuse Control Activities, Inspections (Required)

### Reasonable Distance

Define "reasonable distance" based on community standards for determining accessible child care.

The following defines "reasonable distance":

Describe any steps/consultations made to arrive at your definition:

### Very Low Income

Define "very low income" as it is used in determining priorities for child care benefits.

**"**Very Low Income" is defined as % of the State Income Standard.

### Family Share

"Family share" is the weekly amount paid towards the costs of the child care services by the child's parent or caretaker. In establishing family share, your district must select a percentage from 10% to 35% to use in calculating the family share. The weekly family share of child care costs is calculated by applying the family share percentage against the amount of the family's annual gross income that is in excess of the State Income Standard divided by 52.

Family Share Percentage selected by the county %.

**Note:** The percentage selected here must match the percentage selected in Title XX Program Matrix in WMS.

### Case Closings

The district must describe below how priority is given to federally mandated priorities and describe local priorities. If all NYSCCBG funds are committed, the district will discontinue funding to those families that have lower priorities in order to serve families with higher priorities. Describe below how districts will select cases to be closed in the event that there are insufficient or no funds available.

**1.** Identification of local priorities in addition to the required federal priorities (select one).

- ☐ The district has identified local priorities in addition to the required federal priorities (Complete Section 2)
- ☐ The district has not identified local priorities in addition to the required federal priorities (Complete Section 3).

**2.** Describe how priority is given to federally mandated priorities and describe local priorities. If all NYSCCBG funds are committed, the district will discontinue funding to those families that have lower priorities in order to serve families with higher priorities. Describe in the space below how the district will select cases to be closed in the event that there are insufficient or no funds available.

**a.** The district will select cases to be closed based ONLY on income.

- ☐ No.
- ☐ Yes. Check 1 or 2 below.

1) ☐ The district will close cases from the highest income to lowest income.

2) ☐ The district will close cases based on income bands. Describe the income bands, beginning at 200% of the State Income Standard and ending at 100% of the State Income Standard:

**b.** The district will select cases to be closed based ONLY on categories of families.

☐ No.

☐ Yes. List the categories in the order that they will be closed, including the optional categories selected in Appendix L:

**c.** The district will select cases to be closed based on a combination of income and family category.

☐ No.

☐ Yes. List the categories and income groupings in the order that they will be closed:

**d.** The district will select cases to be closed on a basis other than the options listed above.

☐ No.

☐ Yes. Describe how the district will select cases to be closed in the event that there are insufficient funds to maintain the district's current case load:

**e.** The last cases to be closed will be those that fall under federal priorities. Identify how your district will prioritize federal priorities. Cases that are ranked 1 will be closed last.

Very low income ☐ Rank 1 ☐ Rank 2

Families that have a child with special needs ☐ Rank 1 ☐ Rank 2

**3.** If all NYSCCBG funds are committed, case closings for families that are not eligible under a child care guarantee and are not a federally mandated priority must be based on the length of time in receipt of services. The length of time used to close cases may be based either on the shortest or longest time the family has received child care services, but must be consistent for all families.

**a.** Identify how the district will prioritize federal priorities. Cases that are ranked 1 will be closed last.

Very low income ☐ Rank 1 ☐ Rank 2

Families that have a child with special needs ☐ Rank 1 ☐ Rank 2

**b.** The district will close cases based on the federal priorities and the amount of time the family has been receiving child care services.

☐ Shortest time receiving child care services

☐ Longest time receiving child care services

**4.** The district will establish a waiting list for families whose cases were closed because our county did not have sufficient funds to maintain our current caseload.

☐ No.

☐ Yes. Describe how these cases will be selected to be reopened if funds become available:

### Case Openings

Describe below how priority is given to federally mandated priorities and how the district will select cases to be opened in the event that insufficient funds are available.

**1.** The first cases to be opened will be those that fall under the federal priorities.

Identify how your district will prioritize federal priorities. Cases that are ranked 1 will be opened first.

Very low income ☐ Rank 1 ☐ Rank 2

Families that have a child with special needs ☐ Rank 1 ☐ Rank 2

**2.** The district will select cases to be opened based ONLY on income.

☐ No.

☐ Yes. Check 1 or 2 below.

1) ☐ The district will close cases from the highest income to lowest income.

2) ☐ The district will close cases based on income bands. Describe the income bands, beginning at 200% of the State Income Standard and ending at 100% of the State Income Standard:

**3.** The district will select cases to be opened based ONLY on category.

☐ No.

☐ Yes. List the categories in the order that they will be opened, including the optional categories selected in Appendix L:

**4.** The district will select cases to be opened based on a combination of income and category of family.

☐ No.

☐ Yes. List the categories and income groupings in the order that they will be opened:

**5.** The district selects cases to be opened on a basis other than the options listed above.

☐ No.

☐ Yes. Describe how the district will select cases to be opened in the event that there are not sufficient funds to open all eligible families:

**6.** The district will establish a waiting list when there are not sufficient funds to open all eligible cases.

☐ No.

☐ Yes. Describe how these cases will be selected to be opened when funds become available:

The district's recertification period is every ☐ six months ☐ twelve months

### Fraud and Abuse Control Activities

Describe below the criteria the district will use to determine which child care subsidy applications suggest a higher than acceptable risk for fraudulent or erroneous child care subsidy payment in addition to procedures for referring such applications to the district's front-end detection system.

Describe the sampling methodology used to determine which cases will require verification of an applicant's or recipient's continued need for child care, including, as applicable, verification of participation in employment, education, or other required activities.

Describe the sampling methodology used to determine which providers of subsidized child care services will be reviewed for the purpose of comparing the child care provider's attendance forms for children receiving subsidized child care services with any Child and Adult Care Food Program inspection forms to verify that child care was actually provided on the days listed on the attendance forms.

### Inspections of Child Care Provider Records and Premises

The district may choose to make announced or unannounced inspections of the records and premises of a provider/program that provides child care for subsidized children for the purpose of determining whether the child care provider is in compliance with applicable laws and regulations and any additional requirements imposed on such a provider by the social services district Per 18 NYCRR 415.4(h) (3). Does the district choose to make inspections of such child care providers/programs?

☐ No.

☐ Yes. Provide the details of your inspections plan below.

A. The following *types* of subsidized child care providers/programs are subject to this requirement:

☐ Legally-Exempt Child Care

☐ In-Home; ☐ Family Child Care;

☐ Group programs not operating under the auspices of another government agency

☐ Group programs operating under the auspices of another government agency

☐ Licensed or Registered

☐ Family Day Care; ☐ Registered School Age Child Care

☐ Group Family Day Care; ☐ Day Care Centers; ☐ Small Day Care Centers;

B. The district ☐ *does* <u>*OR*</u> ☐ *does not:*

Reserve the right to make inspections *PRIOR to subsidized children receiving care* in a **home** where the inspection is for the purpose of determining whether the child care provider is in compliance with applicable laws and regulations and any additional requirements imposed on such a provider by the social services district.

C. The district will report violations of regulations as follows:

- Violations by a licensed or registered child care provider will be reported to the applicable Office of Children and Families (OCFS) Regional Office.
- Violations by an enrolled or enrolling legally-exempt child care provider will be reported to the applicable Enrollment Agency.

## APPENDIX N
District Options (Required)

Districts have some flexibility to administer their child care subsidy programs to meet local needs. Check which options that your district wishes to include in your county plan. Complete the attached appendices for any area(s) checked.

**1.** ☐ The district has chosen to establish funding set-asides for NYSCCBG (complete Appendix O).

**2.** ☐ The district is using Title XX funds for the provision of child care services (complete Appendix P).

**3.** ☐ The district has chosen to establish additional local standards for child care providers (complete Appendix Q).

**4.** ☐ The district has chosen to make payments to child care providers for absences (complete Appendix R).

**5.** ☐ The district has chosen to make payments to child care providers for program closures (complete Appendix S).

**6.** ☐ The district has chosen to pay for transportation to and from a child care provider (complete Appendix T).

**7.** ☐ The district has chosen to pay up to 15% higher than the applicable market rates for regulated child care services that have been accredited by a nationally recognized child care organization (complete Appendix T).

**8.** ☐ The district has chosen to pay up to 15% higher than the applicable market rates for non-traditional hours (complete Appendix T).

**9.** ☐ The district has chosen to pay up to 75% of the enhanced market rate for legally-exempt family and in-home child care providers who have completed 10 hours of training, which has been verified by the Legally-Exempt Caregiver Enrollment Agency (complete Appendix T).

**10.** ☐ The district has chosen to pay for child care services while a caretaker who works the second or third shift sleeps (complete Appendix T).

**11.** ☐ The district has chosen to make payments to child care providers who provide child care services, which exceed 24 consecutive hours (complete Appendix U).

**12.** ☐ The district has chosen to include 18-, 19- or 20-year-olds in the Child Care Services Unit (complete Appendix U)

**13.** ☐ The district is seeking a waiver from one or more regulatory provisions. Such waivers are limited to those regulatory standards that are not specifically included in law (complete Appendix U).

**14.** ☐ The district has chosen to pay for breaks in activity for low income families (non public assistance families). Complete Appendix U.

**15.** ☐ The district has chosen to use local equivalent forms such as, but not limited to, child care application, client notification, and/or enrollment forms (attach copies of the local equivalent forms your district uses).

*Any previous approvals for local equivalent forms will not be carried forward into this county plan. Therefore, any local equivalent forms a district wishes to establish or renew must be included in this plan and will be subject to review and approval by OCFS.*

## APPENDIX O
Funding Set-Asides (Optional)

**Total NYSCCBG Block Grant Amount, Including Local Funds**

Category: .....$

Category: .....$

Category: .....$

Category: .....$

Category: .....$

Category: .....$

Category: .....$

**Total Set-Asides**.....**$**

Describe for each category the rationale behind specific set-aside amounts from the NYSCCBG (e.g., estimated number of children).

Category:

Description:

Category:

Description:

Category:

Description:

Category:

Description:

The following amounts are set aside for specific priorities from the Title XX block grant:

Category: .....$

Category: .....$

Category: .....$

**Total Set-Asides (Title XX)**.....**$**

Describe for each category the rationale behind specific amounts set aside from of the Title XX block grant (e.g., estimated number of children).

Category:

Description:

Category:

Description:

Category:

Description:

Category:

Description:

## APPENDIX P
Title XX Child Care (Optional)

Enter projected total Title XX expenditures for the plan's duration:

Indicate the financial eligibility limits (percentage of State Income Standard) your district will apply based on family size. Maximum reimbursable limits are 275% for a family of one or two, 255% for a family of three, and 225% for a family of four or more. Districts that are utilizing Title XX funds *only* for child protective and/or preventive child care services must not enter financial eligibility limits as these services are offered without regard to income.

Family Size: (2) % (3) % (4) %

Programmatic Eligibility for Income Eligible Families (Check all that apply.)

Title XX:
- ☐ employment
- ☐ education/training
- ☐ seeking employment
- ☐ illness/incapacity
- ☐ homelessness
- ☐ domestic violence
- ☐ emergency situation of short duration
- ☐ participating in an approved substance abuse treatment program

Does the district apply any limitations to the programmatic eligibility criteria?

☐ Yes ☐ No

(See Technical Assistance #1 for information on limiting eligibility.)

If yes, describe eligibility criteria:

Does the district prioritize certain eligible families for Title XX funding?

☐ Yes ☐ No

If yes, describe which families will receive priority:

Does the district use Title XX funds for child care for open child protective services cases?

☐ Yes ☐ No

Does the district use Title XX funds for child care for open child preventive services cases?

☐ Yes ☐ No

## APPENDIX Q
Additional Local Standards for Child Care Providers (Optional)

The district may propose local standards in addition to the State standards for legally-exempt providers who will receive child care subsidies. This appendix must be completed for **each** additional standard that the district wishes to implement.

**1.** Check or describe in the space provided below the additional local standards that will be required of child care providers/programs.

- ☐ Verification that the provider has given the parent/caretaker complete and accurate information regarding any report of child abuse or maltreatment in which they are named as an indicated subject
- ☐ Local criminal background check
- ☐ Requirement that providers that care for subsidized children for 30 or more hours a week participate in the Child and Adult Food Care Program (CACFP)
- ☐ Site visits by the local district
- ☐ Other (please describe):

**2.** Check below the type of child care program to which the additional standard will apply and indicate the roles of the persons to whom it will apply in cases where the standard is person-specific.

- ☐ Legally-exempt family child care program. Check all that apply.
  - ☐ Provider ☐ Provider's Employee ☐ Provider's Volunteer
- ☐ Provider's household member age 18 or older
- ☐ Legally-exempt in-home child care program. Check all that apply.
  - ☐ Provider ☐ Provider's Employee ☐ Provider's Volunteer
- ☐ Legally-exempt group providers not operating under the auspices of another government agency. Check all that apply.
  - ☐ Provider ☐ Provider's Employee ☐ Provider's Volunteer
- ☐ Legally-exempt group providers operating under the auspices of another government or tribal agency. Check all that apply.
  - ☐ Provider ☐ Provider's Employee ☐ Provider's Volunteer

**3.** Districts are responsible for implementation of the additional local standard unless they have a formal agreement or contract with another organization. Check the organization that will be responsible for the implementation of the additional local standard.

- ☐ Local social services staff

  Provide the name of the unit and contact person:
- ☐ Contracted agency

Provide the name of the agency and contact person:

**4.** Are there any costs associated with the additional standard?

☐ Yes ☐ No

**Note:** Costs associated with the additional standard cannot be passed on to the provider.

**5.** Describe the steps for evaluating whether the additional local standard has been met.

**6.** Indicate how frequently reviews of the additional standard will be conducted. Check all that apply.

Legally-Exempt Programs:

☐ Initial enrollment ☐ During the 12-month enrollment period

☐ Re-enrollment ☐ Other

**7.** In the space below, described the procedures the district will use to notify the Legally-Exempt Caregiver Enrollment Agency (EA) as to whether the legally-exempt provider is in compliance with the additional local standards. Districts must notify the EA within 25 days from the date they received the referral from the EA. (Districts need to describe this procedure only if the additional local standard is applied to legally-exempt child care providers.)

**8.** Describe the justification for the additional standard in the space below.

## APPENDIX R
Payment to Child Care Providers for Absences (Optional)

The following providers are eligible for payment for absences (check all that are eligible):

☐ Day Care Center ☐ Legally-Exempt Group

☐ Group Family Day Care ☐ School Age Child Care

☐ Family Day Care

Our county will only pay for absences to providers with which the district has a contract or letter of intent.

☐ Yes ☐ No

Base period (check one) ☐ 3 months ☐ 6 months

Number of absences allowed during base period:

| Period | Routine Limits (# of days) | Extenuating Circumstances (# of days) | Total Number of Absences Allowed (# of days) |
|---|---|---|---|
| In a month | | 0 | |
| Base period | | | |

List reasons for absences for which the district will allow payment:

List any limitations on the above providers' eligibility for payment for absences:

**Note:** Legally-exempt family child care and in-home child care providers are **not** eligible to receive payment for absences.

## APPENDIX S

Payment to Child Care Providers for Program Closures (Optional)

The following providers are eligible for payment for program closures:

☐ Day Care Center ☐ Legally-Exempt Group

☐ Group Family Day Care ☐ School Age Child Care

☐ Family Day Care

The county will only pay for program closures to providers with which the district has a contract or letter of intent.

☐ Yes ☐ No

Enter the number of days allowed for program closures (maximum allowable time for program closures is five days).

List the allowable program closures for which the county will provide payment.

**Note:** Legally-exempt family child care and in-home child car providers are **not** allowed to be reimbursed for program closures.

# APPENDIX T

## Transportation, Differential Payment Rates, Enhanced Market Rate for Legally-Exempt and In-Home Providers, and Sleep (Optional)

### Transportation

Describe any circumstances and limitations your county will use to reimburse for transportation. Include what type of transportation will be reimbursed (public vs. private) and how much your county will pay (per mile or trip). Note that if the county is paying for transportation, the Program Matrix in WMS should reflect this choice.

### Differential Payment Rates

Indicate the percentage above the market rate your county has chosen.

- Accredited programs may receive a differential payment up to % above market rate.
- Care during non-traditional hours may be paid up to % above market rate.
- Limitations to the above differentials:

Payments may not exceed 15% above market rate. However, if your district wishes to establish a payment rate that is more than 15% above the applicable market rate, describe below why the 15% maximum is insufficient to provide access within the district to accredited programs and/or care provided during non-traditional hours.

### Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers

Indicate if the district is electing to establish a payment rate that is in excess of the enhanced market rate for legally-exempt family and in-home child care providers who have annually completed 10 or more hours of training and the training has been verified by the legally-exempt caregiver enrollment agency.

☐ No.

☐ Yes. Our market rate will not exceed 75% of the child care market rate established for registered family day care.

### Sleep

The following describes the standards that will be used in evaluating whether or not to pay for child care services while a parent or caretaker that works a second or third shift sleeps, as wells as any limitations pertaining to payment:

Indicate the number of hours allowed by your district (maximum number of hours allowed is eight).

# APPENDIX U

## Child Care Exceeding 24 Hours, Child Care Services Unit, Waivers, and Breaks in Activities (Optional)

### Child Care Exceeding 24 Hours

Child Care services may exceed 24 consecutive hours when such services are provided on a short-term emergency basis or in other situations where the caretaker's approved activity necessitates care for 24 hours on a limited basis. Check below under what circumstances the county will pay for child care exceeding 24 hours.

☐ On a short-term or emergency basis

☐ The caretaker's approved activity necessitates care for 24 hours on a limited basis

Describe any limitations for payment of child care services that exceed 24 consecutive hours.

### Child Care Services Unit (CCSU)

Indicate below if your county will include 18-, 19-, or 20-year-olds in the CCSU, which is used in determining family size and countable family income.

The district will include the following in the CCSU (check all that apply).

☐ 18-year-olds ☐ 19-year-olds ☐ 20-year-olds

**OR**

The district will only include the following in the CCSU when it will benefit the family (check all that apply)

☐ 18-year-olds ☐ 19-year-olds ☐ 20-year-olds

Describe the criteria your district will use to determine whether or not 18-, 19-, or 20-year olds are included in the CCSU.

### Waivers

Districts have the authority to request a waiver of any regulatory provision that is non-statutory. Describe and justify why your county is requesting a waiver.

### Breaks in Activities

Districts may pay for child care services for low income families during breaks in activities either for a period not to exceed two weeks or for a period not to exceed four weeks when child care arrangements would otherwise be lost and the subsequent activity is expected to begin within that period. Indicate below if your county will make such payments (check one).

☐ Two weeks ☐ Four weeks

Districts may provide child care services while the caretaker is waiting to enter an approved activity or employment or on a break between approved activities. The following low income

families are eligible for child care services during a break in activities (check any that are eligible):

☐ Entering an activity

☐ Waiting for employment

☐ On a break between activities

# APPENDIX V

## Persons In Need of Supervision (PINS) Diversion Services

This appendix refers to the PINS Diversion population only. Complete sections 1 through 4 for PINS Diversion population only.

**1.** Designation of Lead Agency (check one):

☐ Probation ☐ LDSS

**2.** Inventory of PINS Diversion Service Options – Describe below the current inventory of available community services within each category below for the PINS Diversion population. For each service, include the geographic area (countywide or specific cities or towns). Please note that the first three service categories are required.

| Service Category | Geographic Area | Service Gap – Check one |
|---|---|---|
| Residential Respite – required | | ☐ Yes ☐ No |
| Crisis Intervention 24 hours/day – required | | ☐ Yes ☐ No |
| Diversion Services/other alternatives to detention – required | | ☐ Yes ☐ No |
| Alternative Dispute Resolution Services – optional | | ☐ Yes ☐ No |
| Other: | | ☐ Yes ☐ No |
| Other: | | ☐ Yes ☐ No |

**3.** PINS Diversion Procedures – Please provide a description of any changes that have been made to these procedures since the submission of your last comprehensive plan, including any collaborative team processes.

| PINS Diversion Services Protocol | Responsible Agency(ies) | Brief Description of How Provided |
|---|---|---|
| 1. Provides an immediate response to youth and families in crisis (includes 24 hours a day response capability | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |
| 2. Determines the need for residential respite services and need for alternatives to detention | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |

| PINS Diversion Services Protocol | Responsible Agency(ies) | Brief Description of How Provided |
|---|---|---|
| 3. Serves as intake agency – accepts referral for PINS diversion services, conducts initial conferencing, and makes PIN eligibility determinations | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |
| 4. Conducts assessment of needs, strengths, and risk for continuing with PIN behavior<br>Name of assessment instrument used: | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |
| 5. Works with youth and family to develop case plan | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |
| 6. Determines service providers and makes referrals | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |
| 7. Makes case closing determination | ☐ Probation<br>☐ LDSS<br>☐ Both<br>☐ Other (name) | |

**4.** PINS Diversion Services Plan

**a.** Development of PINS Diversion Services Plan and MOU

**i.** Planning activities – Briefly describe all PINS Diversion Services Planning activities the county has engaged in related to this current plan.

**ii.** List stakeholder and service agency involvement in planning.

**b.** Please define the PINS Diversion population in your county. Specifically, please provide the following:

**i.** Number of PINS Diversion referrals filed by parents:

**ii.** Number of PINS Diversion referrals by schools:

**iii.** Number of PINS Diversion referrals other sources:

**iv.** Number of PINS Diversion cases closed as Successfully Diverted:

**v.** Number of PINS Diversion cases closed as Unsuccessful and Referred to Petition:

**5.** Identify any **aggregate** needs assessment conclusions and/or priorities regarding the PINS Diversion Population that have been developed as part of the planning process.

**6.** Please identify the intended outcomes to be achieved for the PINS Diversion population. For each outcome:

**a.** In the first column, identify quantifiable and verifiable outcomes of the desired change in conditions or behaviors for the PINS Diversion population.

**b.** In the second column, identify the specific raw number or percentage change indicator sought for that outcome.

**c.** In the third column, **describe the strategies** to be implemented to achieve the identified indicator and outcome. Each strategy should include the timeframe for completion, and a designation of who is responsible for implementation.

| Outcome (For PINS Diversion Population) | Indicator (Expressed as a raw number or % change ) | Strategy/Plan to achieve (Who, what, and when) |
|---|---|---|
| | | |
| | | |
| | | |

# County Child and Family Service Plan
# Guidance Document

This document includes directions and guidance for completing your required county plan. It is intended to provide information, clarification and, in some sections, optional ways for Local Departments of Social Services (districts) to develop their responses. Districts must use the forms provided to complete the plan.


Appendix A: Plan Signature Page/Legal Assurances/Waiver ..... 3

Appendix B-1: Protective Services for Adults ..... 7

Appendix B-2: Child Protective Services (CPS) ..... 7

Appendix B-3: Child Welfare Services ..... 7

Appendix B-4: Child Care Services ..... 8

Appendix B-5: Runaway and Homeless Youth (RHYA) ..... 8

Appendix B-6: Youth Development ..... 8

Appendix C: List of Data Sources Used in Needs Assessment ..... 8

**Program Narrative** ..... 9

Appendix D: Relationship Between County Outcomes and Title IV-B Federal Goals ..... 12

Appendix E: Public Hearing Requirements ..... 13

Appendix F: Program Matrix ..... 13

Appendix G: Technical Assistance Needs ..... 14

Appendix H: Memorandum of Understanding Between the District Attorney's Office and Child Protective Services ..... 14

Appendix I: 2012 Estimate of Persons to be Served ..... 15

Appendix J: Non-Residential Domestic Violence Services ..... 15

Appendix K: Child Care Administration ..... 17

Appendix L: Other Eligible Families if Funds are Available ..... 18

Appendix M: Reasonable Distance, Very Low Income, Family Share, Case Closings and Openings, Recertification Period, and Fraud Abuse and Control Activities ..... 18

Appendix N: District Options ..... 20

Appendix O: Funding Set-Asides ..... 21

Appendix P: Title XX Child Care ..... 21

Appendix Q: Additional Local Standards for Child Care Providers ..... 21

Appendix R: Payment to Child Care Providers for Absences ..... 22

Appendix S: Payment to Child Care Providers for Program Closures .....22

Appendix T: Transportation, Differential Payment Rates, Enhanced Market Rate for Legally-Exempt and In-Home Providers, and Sleep .....23

Appendix U: Child Care Exceeding 24 Hours, Child Care Services Unit, Waivers, and Breaks in Activities .....24

Appendix V: Persons in Need of Supervision (PINS) Diversion Services.....25

Attachment 1: Child Care Technical Assistance: Eligible Families.....27

Attachment 2: Child Care Technical Assistance: Limiting Eligibility for Other Eligible Families if Funds are Available .....31

Attachment 3: Updating Title XX Matrix in the Welfare Management System.....32

## Cover Page

This page should include the effective dates of the plan (January 1, 2012 – December 31, 2016); the name of the contact person and his or her phone number, title, and email address.

## Table of Contents

The Table of Contents for the plan must be completed by adding page numbers.

## Appendix A: Plan Signature Page/Legal Assurances/Waiver

All signatures must be included, along with the date(s). The signatures on this page attest to the district's compliance with assurances A through H (below), which are incorporated by reference into your plan. The legal assurances are statutorily mandated; districts must indicate that they are complying with these standards or must provide a remediation plan if they are not.

Fill in the name of the county in the spaces indicated. The page must then be printed out so it can be signed by the appropriate officials. You may scan the page and send it via e-mail along with your plan or by fax to 518-474-9452, attention Kristin Gleeson. The county must retain the original, signed copy of the signature page.

### Legal Assurances

**A. General**

1. All providers of service under this plan operate in full conformance with applicable federal, state, and local fire, health, safety and sanitation, and other standards prescribed in law or regulations. Where the county is required to provide licensure for provision of services, agencies providing such services shall be licensed.
2. All recipients of funds are required to operate each program or activity so that, when viewed in its entirety, the program or activity is readily accessible to and usable by persons who are handicapped to the extent required by law.
3. Benefits and services available under the State Plan are provided in a non-discriminatory manner as required by Title VI of the Civil Rights Act of 1964 (as amended).
4. The activities covered by this plan serve only those individuals and groups eligible under the provisions of the applicable state and federal statutes.
5. There is in operation a system of fair hearings and grievances under which applicants for or recipients of services and care may appeal denial, exclusion, reduction, termination, or choice of services/care; mandatory nature of service/care; or failure to take timely action upon an application for services/care.
6. Adequate and timely notice is provided to applicants for and recipients of services and care as required NY 18 NYCRR 407.5(h) (2) (I).
7. Title XX-funded services are available to eligible individuals in every geographic area within the district. Where different services are made available to a specific category of individuals in different geographic areas, services are available to all eligible individuals in that category who reside in that area.

**B. Child Protective Services**

1. The district maintains an organizational structure and staffing, policies, and practices that maintains compliance with 18 NYCRR 432.
2. The district has specifically reviewed 18 NYCRR 432.2 (f)(3) to determine its compliance with all assurances outlined in those regulations.

**C. Preventive Services for Children**

1. Children and families in need of the core Preventive Services have these services provided to them in a timely manner. Core services include Day Care, Homemaker, Transportation, 24-hour access to Emergency Services, Parent Aide or Parent Training, Clinical Services, Crisis Respite Care, Services for Families with AIDS/HIV+, and Housing Services.
2. The district maintains efforts to coordinate services with service agencies and other public and private agencies within the district that provide services to children including the use of referral procedures with these agencies and formal and informal agreements.
3. The district has prepared plans and procedures for providing or arranging for 24-hour access to emergency services for children who are at risk of foster care as specified in 18 NYCRR 423.4. Staff is aware of such plans and procedures.

**D. Youth Development**

1. Where the county receives State funds pursuant to Executive Law 420, the district's youth program maintains an organizational structure and staffing, policies, and practices that comply with Article 19-A of the Executive Law and 9 NYCRR Subpart 165-1.

**E. Adult Protective Services**

1. The district has established a process that enables the commissioner to act as a guardian and representative or protective payee on behalf of a client in need of protective services for adults (PSA) when no one else is willing or capable of acting in this capacity.
2. In providing protective services for adults, the district will implement each responsibility contained in 18 NYCRR Part 457.

**F. Domestic Violence Services**

1. Domestic violence victims seeking non-residential services are provided with all needed core services directly from the provider in a timely manner and as otherwise specified in 18 NYCRR Part 462.
2. Non-residential services are provided regardless of the person's financial eligibility; must provide services in a manner that addresses ethnic composition of the community; must provide services in a manner that addresses needs of victims who are disabled, hearing impaired, or non-English speaking, and must provide services in a safe and confidential location.

## G. Child Care

The district assures that when providing child care services under the New York State Child Care Block Grant (NYSCCBG), the Social Services Block Grant (Title XX), and other child care services funded with State or federal funds, it is in compliance with all pertinent State and federal laws and regulations and policies, which include but are not limited to the following:

1. Providing parents or other eligible caretakers with information about the full range of providers eligible for payment with child care subsidy funds.
2. Offering child care certificates to assist parents in accessing care.
3. Informing clients of criteria to consider when selecting a child care provider.
4. Allowing parents or other eligible caretakers to select any legal, eligible child care provider (districts may disapprove providers chosen by families with a preventive or protective case under certain circumstances).
5. Establishing at least one method of paying for child care provided by caregivers who do not have a contract with the county.
6. Determining that legally-exempt child care providers are operating in compliance with any additional State-approved local standards.
7. Giving priority for subsidies to children of families with very low income and to families that have children with special needs.
8. Guaranteeing child care services to families that have applied for or are in receipt of public assistance (PA) when such services are needed for children under 13 years of age in order to enable custodial parents or caretaker relatives to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 18 NYCRR Part385.
9. Guaranteeing child care services to families who are in receipt of PA when such services are needed for children under 13 years of age in order to enable the parents or caretaker relatives to engage in work as defined by the social services district.
10. Guaranteeing child care services to applicants for or recipients of public assistance who are employed and would otherwise be financially eligible for public assistance benefits that choose to receive child care subsidies for children under 13 years of age in lieu of public assistance benefits for such period of time as the applicants/recipients continue to be financially eligible for public assistance.
11. Guaranteeing child care services to families transitioning from PA whose PA cases have been closed or who voluntarily close their PA cases, and who are no longer financially eligible for PA due to an increase in earned income or child support. The family must include an eligible child under the age of 13 who needs child care in order for the parent to be engaged in work, and the family's gross income must be at or below 200% of the State Income Standard. For transitional child care, the eligibility period begins with the first month in which a family becomes ineligible for PA or "child care in lieu of PA" and is limited to 12 months in duration.

12. Informing recipients of PA and former PA recipients of the child care guarantees for eligible families.

13. Informing families in receipt of public assistance of their responsibility to locate child care.

14. Informing families in receipt of public assistance of the criteria the district will use to determine that a family has demonstrated an inability to obtain needed child care because of the following reasons:

    - unavailability of appropriate child care within a reasonable distance from the individual's home or work site;
    - unavailability or unsuitability of informal child care by a relative or under other arrangements; or
    - unavailability of appropriate and affordable regulated child care arrangements.

15. Offering two choices of legal child care, at least one of which must be a licensed or registered provider, to recipients of public assistance who have requested assistance in locating child care for a required work activity and who have demonstrated an inability to obtain care.

16. Informing recipients of public assistance that their public assistance benefits cannot be reduced or terminated when they demonstrate that they are unable to work due to the lack of available child care for a child under the age of 13.

17. Advising recipients of public assistance that the time during which they are exempted from their required activity due to the lack of available child care will still count toward the families' time limit on public assistance.

18. Providing payment for the actual cost of care (rate charged by the provider to non-subsidized families unless a lower payment rate has been established in a negotiated contract) up to the applicable market rate.

19. Allocating NYSCCBG subsidy funds in a manner that provides eligible families equitable access to child care assistance funds.

20. Providing child care to families who are eligible, as long as funds are available, and to other families which are eligible if funds are available and if the social services district has listed such families as eligible in the Child and Family Services Plan.

21. Not requiring a contract with child care providers as a condition for payment when providing child care subsidies under the NYSCCBG. The district provides parents or other eligible caretakers the option to either enroll the child with an eligible provider who has a contract with the district or to receive a child care certificate to arrange child care services with any eligible provider.

22. Obtaining approval from OCFS as part of the district's Child and Family Services Plan before imposing any additional requirements on child care providers that serve subsidized children.

**H.** Staffing

The Organizational Chart requirements will be met by the social services district's assurance that the organizational chart submitted to the Office of Financial Operations and Audit for the Random Moment Survey process is current.

## Appendices B-1 to B-6: Lists of Required Interagency Consultation

These appendices must be completed for the planning of child protective, child welfare, adult protective, and day care services, as well as RHYA if the county receives RHYA state aid. Detailed meeting information does not need to be included in the county plan, but districts are directed to maintain meeting agendas and/or minutes for a period of five years.

### Appendix B-1: Protective Services for Adults

Some agencies and organizations that may be consulted for these mandated areas are listed below.

**Aging:** Representatives from the area agencies on aging, senior citizen centers and voluntary organizations that provide services to the elderly population.

**Health:** Representatives from the county Public Health Department including public health nurses and the environmental staff, Title XIX-funded home care providers and other medical and health service providers.

**Mental Health:** Representatives from the county Mental Health Department, psychiatric and developmental centers, community support systems core agencies, and other organizations and agencies involved in the provision of mental health services to mentally ill and developmentally disabled adults.

**Legal:** Representatives from legal aid organizations, children’s attorneys, the courts, the legal advocacy attorney from the area agency on aging, and the County Attorney's office.

**Law Enforcement:** Representatives from the State Police; city, town, or village police; the Sheriff's department; and the District Attorney's office.

### Appendix B-2: Child Protective Services (CPS)

This section must include specific agencies represented.

### Appendix B-3: Child Welfare Services

Examples of these agencies/organizations include: Youth Bureaus or Boards, Departments of Probation, Family Court judges, mental health agencies, and legal and law enforcement agencies.

## Appendix B-4: Child Care Services

Examples of these agencies/organizations include: Youth Bureaus or Boards, Departments of Probation, Family Court judges, mental health agencies, and legal and law enforcement agencies.

## Appendix B-5: Runaway and Homeless Youth (RHYA)

Examples of these agencies/organizations include: Departments of Social Services, RHYA providers, and other public and private and/or voluntary agency providers.

## Appendix B-6: Youth Development

Examples of these agencies/organizations include: task forces, coalitions, Youth Boards, parents, youths, community providers; and municipal youth boards.

## Appendix C: List of Data Sources Used in Needs Assessment

On the form provided, check all data sources used during your required interagency consultations and in preparing your needs assessment.

### List of Potential Sources

**America's Children: Key Indicators of Well-Being**: an annual report of indicators measuring the well-being of children and youth in the United States. A detailed report with more extensive narrative is published biannually. www.childstats.gov

**Behavior Risk Factor Surveillance System** (BRFSS): a telephone survey sponsored by the Centers for Disease and Prevention (CDC) that tracks health risks in the United States. The BRFSS specifically focuses on producing state estimates, which can be used to monitor progress towards health goals or to evaluate state policies. http://www.cdc.gov/brfss/

**Kids' Well-Being Indicators Clearinghouse** (KWIC) – a website operated by the New York Council of Children and Families that provides data on indicators of children's health, education, and well-being. KWIC aims to provide data to help assess the needs of children in New York, to design and improve programs, and specifically focus on outcomes. KWIC data is based on the Touchstones framework, which focuses on preventative measures, early intervention, and family and youth involvement. Touchstones provide goals to guide state efforts and future expectations of child health and well-being, provide benchmarks for monitoring well-being over time, and help focus planning. http://www.nyskwic.org/

**New York State Department of Health (DOH)**: a section of the DOH website contains County and state health data and statistics from a variety of sources with links to more detailed state tables and reports. Available data range from incidence of AIDS and HIV to vital statistics and demographic information for New York. Reliable and consistently updated data allow users to better monitor and measure community health in their counties.
http://www.health.state.ny.us/statistics

**OCFS Data Warehouse:** a database with information on children in foster care; incidence of child abuse, sexual abuse, and maltreatment; and transitions into adoption. The warehouse uses data provided by Child Protective Services (CPS) and Foster and Adoptive Home Development. It is designed to meet the needs of local districts, regional offices, and state OCFS

staff who need access to management reports and data in the CONNECTIONS and child welfare legacy systems. For more information, email data.warehouse@dfa.state.ny.us

**OCFS Child and Family Services Review (CFSR) Data Packets:** packets are available in the Public Folders. Updated twice a year, they provide district-specific performance on key outcomes measures, including recurrence of maltreatment, permanent exits from foster care for both reunification and adoption, re-entry, stability and others. This data is designed to help districts monitor their progress in meeting their goals related to safety and permanency.

**Youth Risk Behavior Surveillance System:** a CDC survey of high school students (grades 9 through 12) that monitors adolescent health behaviors that contribute to some of the leading causes of death, social problems, and disability among youth and adults. The survey aims to establish the prevalence of such behaviors, monitor decreases and increases over time, and measure progress towards meeting Healthy People 2020 goals.
http://www.cdc.gov/HealthyYouth/yrbs/index.htm

**U.S. Census/American Community Survey:** a nationwide survey designed to provide communities a fresh look at how they are changing, with information such as age, race, income, commute time to work, home value, veteran status, and other important data.
http://factfinder.census.gov/home/saff/main.html?_lang=en

## Program Narrative

### I. Outcome Framework/Mission/Vision

1. If your district has one, please describe your district's outcome framework, mission, and/or vision.

   Please describe your district's outcome framework/mission/vision. Many districts have found it useful to establish a mission or vision statement or to use a framework, such as New York State Touchstones. This assists the county in focusing its planning and work. If your district does not have such a statement, leave this area blank.

2. Describe your district's demographic, economic, and social characteristics.

   This information helps to frame some of the issues that affect the needs of your district. These issues should be addressed in your needs assessment if they have an impact on the safety, permanency, and well-being of children and families.

### II. Planning Process

1. Describe the county planning process and how that consultation informed your district's needs assessment, priorities, and outcomes.

   Present a brief overview of your district's planning process for identifying needs, selecting outcomes, and determining strategies to address those outcomes. The planning process is strengthened by the engagement of various public and private agencies, community-based organizations, families, youth and other partners. Each has a unique contribution to make to the planning process and each in turn benefits from having been involved. Identify key players, stakeholders and other contributors to publicly acknowledge their support. This is an opportunity for you to showcase your collaborative work and to acknowledge functioning planning groups.

Community agencies: Briefly describe how the planning process relates to the development of other county plans including those developed by health, mental health, probation, alcohol and substance abuse, workforce development and/or education agencies. Many counties have also benefited from including the business community, faith based community, law enforcement, the United Way or other community funders in the planning decisions.

Youth: Involving youth in the planning process focuses their energy, insights and perspectives on improving the community in which they reside. Utilizing youth as a resource has been demonstrated to have a positive impact on adults who then see young people in new, productive ways. Briefly describe youth participation in the planning process.

## III. Self Assessment

**1.** Describe successes and achievements the district has experienced since the last plan update in each of the program areas listed below:

**a.** Child protective services

**b.** Child preventive services

**c.** Foster Care

**d.** Adoption

**e.** Detention

**f.** Youth Development

**g.** Runaway and Homeless Youth

**h.** Domestic Violence

**i.** Adult protective services

**j.** Child Care

**2.** Noting the data and trends as identified in Appendix C, and the cumulative district consultations (Appendices B-1 to B-6), describe the underlying conditions or factors that influence the district's performance in meeting the needs of children, youth, adults, and families (as applicable) in each of the program areas listed in the Section 1 above.

An example may include the following:

Child Protective Services: CFSR data indicate an 18% Recurrence Rate in 2010, which is an increase of 2% over 2009. The number of CPS reports has steadily increased over the past five years (400 in 2006 to 513 in 2010). As noted in the consultation meetings, a cut in preventive services, in addition to the hiring freeze of CPS and preventive caseworkers that began in 2009, have negatively impacted the district's ability to provide a continuum of services to families in need of child protective and preventive services.

## IV. Priority Program Areas

From the Self Assessment in Section III, please identify the needs that you have determined to be priorities. Highlight the needs that are priorities, based on data analysis, the review of outcome measures, and/or the input from stakeholders and staff.

## V. Outcomes

**1.** Outcomes are based on the district's performance as identified through the data and trends noted in the Self Assessment (Section III). Outcomes should be expressed as desired changes within each of the program areas to address the underlying conditions or factors as noted in the district's Self Assessment.

The outcomes must also be related to the use of OCFS funding and/or required areas of services by the social services district and Youth Bureau. If the county receives RHYA funding, outcomes should address the coordination of available resources for runaway and homeless youth. Districts may incorporate outcomes from their Child and Family Services Review Program Improvement Plans. Districts are required to address at least two of the following State-determined adult service goals.

**a.** Impaired adults who self-neglect or are abused, neglected, or exploited by others will be identified, have their living situation thoroughly investigated, and be protected.

**b.** To pursue appropriate legal interventions to address situations where impaired adults are at risk of harm, are unable to make informed decisions, and are refusing necessary services.

**c.** To utilize multi-disciplinary community resources to improve assessments as well as develop service plans which reduce risk and protect adults.

**d.** To provide protective services in the least restrictive manner, respecting the adult's rights to self-determination and decision-making.

New York State must account to the federal government for the five goals listed in Title IV-B of the Social Security Act (see Appendix D). Many locally developed outcomes will be linked to these five broad goals. Incorporate outcomes from your Child and Family Services Review Program Improvement Plan (PIP) in this section as well. Locally developed outcomes must address, or be linked to, at least two of the four Adult Service goals as listed noted in the Program Narrative document.

You may use Appendix D, Goal 2, to report other outcomes that result from county integrated planning.

**3.** Districts are to include quantifiable indicators or measures they will be using to assess their progress. These measures may include CFSR data measures, QYDS data measures, or any others as noted in Appendix C.

## VI. Strategies to Achieve Outcomes

Describe the strategies that will be implemented with the goal of meeting the outcomes described in Section V, including the strategies that support your Child and Family Services PIP outcomes. Include the agency or department that will be the lead in ensuring that the strategies are implemented and monitored for their effectiveness in reaching the outcomes. Include timeframes and indicate milestones or benchmarks that will be obtained.

## VII. Plan Monitoring

1. Briefly describe the methods and processes by which the implementation of the Child and Family Services Plan and the achievement of outcomes will be verified and monitored by the county.

   Monitoring is important for program accountability, achievement of client outcomes, providing information for inform the needs assessment process, and the process for ensuring the proper the allocation of resources.

   Ongoing review of the plan and its progress keeps the planning process active, allows for changes midstream and helps prepare for future plans. This is the process for monitoring the implementation of the entire plan.

## VIII. Financing Process

1. Briefly describe the relationship between OCFS funding and other funding administered by the district, such as the Youth Bureau. This would also include, for example, TANF, PINS allocations, purchase of services, and other grants obtained locally.

   In this section, discuss how the social services district's delivery system is financed. Provide general information on the types of funds used (e.g., local, state, federal), and the criteria and procedures used for selecting service providers for child welfare, adult protective, and non-residential domestic violence. If applicable, you may also include how the Flexible Funds for Family Services allocation has been used to support outcomes in the plan.

   If not previously described, include the needs assessment process, the achievement of outcomes, and the selection of strategies.

2. Describe procedures that will be used to ensure that the services being purchased are effective in meeting the outcomes as outlined in the contract and your plan. Include the frequency of monitoring, tools that will be used, and who will be involved.

## Appendix D: Relationship Between County Outcomes and Title IV-B Federal Goals

New York must demonstrate to the federal government its compliance with the goals defined in Title IV-B of the Social Security Act, Subpart I. It is expected that some of the district outcomes will be supportive of and linked to the five broad goals listed below and in Appendix D. Keep in mind that many of your outcomes have already been listed in your Child and Family Services Review PIP, and should be included here.

**Goal 1:** Families, including nuclear, extended, and adoptive families, will be strengthened and supported in raising and nurturing their children; in maintaining their children's connections to their heritage; and in planning their children's future.

**Goal 2:** Children who are removed from their birth families will be afforded stability, continuity, and an environment that supports all aspects of their development.

**Goal 3:** Victims of family violence, both child and adult, will be afforded the safety and support necessary to achieve self-sufficiency (adult) and/or to promote their continued growth and development (child).

**Goal 4:** Adolescents in foster care and pregnant, parenting, and at-risk teens in receipt of public assistance will develop the social, educational, and vocational skills necessary for self-sufficiency.

**Goal 5:** Native American families, including nuclear, extended, and adoptive families, will be strengthened and supported in raising and nurturing their children; in maintaining their children's connections to their heritage; and in planning their children's future.

## Appendix E: Public Hearing Requirements

The law requires that at least one public hearing must be held during the development of and prior to the submission of the plan. Such public hearing(s) shall be held only after 15 days' notice is provided in a newspaper of general circulation in the district. Such notice must specifically identify the times during the public hearing when child protective services, adult services, and family and children's services components of the plan are to be considered.

Using the form provided in Appendix E, include the dates(s) of public hearing(s); how the hearing(s) was/were publicized; the number of person who attended, including a general description of their interests and affiliations; and the major issues raised at the hearing(s) and how these comments were used in the planning process. The plan should not be completed prior to the public hearing and should be considered a draft until after the public hearing.

One goal of the public hearing is to inform the community of the services available in the district and how they can be accessed. The public hearing also allows the public to raise issues and offer ways to improve delivery and provision of services in the district. Comments and issues raised at the hearing must be incorporated into the planning process if they are deemed to be valid. Implementing strategies that provide for meaningful public input can help to enhance the local planning process.

Public hearing information must be provided using the form for Appendix E that is included in this packet. **The plan is not to be submitted until 15 days after the public hearing.**

## Appendix F: Program Matrix

Districts are required to enter Preventive Program Matrix information into the Welfare Management System (WMS). Please note in Appendix F if changes have been made to the matrix since your last annual plan, and what those changes are.

WMS allows local districts to update their Title XX Matrix by using the **Title XX Appendix F Update Menu**. The matrix is the basis for the authorization/payment of Title XX services for each local district. State income standards are established using the Federal Poverty Levels

(FPL), which are updated periodically by the U.S. Department of Health and Human Services. When new Federal Poverty Levels are set, the State updates the WMS Title XX Services Matrix and the Title XX Matrix Update process is initiated. Local districts are notified when the Title XX Matrix (Appendix F) is available for their updates.

Each district must designate a worker (or workers) who will receive the yearly notice that the Title XX Matrix (Appendix F) is available for the district's update. The district must provide the State with the worker's name and user identification number.

Each district must update its WMS Title XX Matrix as necessary, and submit it to the State for review. Districts are not able to alter State-mandated fields. The updates are done by a district worker who has been assigned security function 180 by the district's LAN administrator (this does not have to be the same person who receives the annual update notice). The worker who does the update will be notified after the State reviews the district's submission.

See Attachment 3, page 32, for detailed information about entering Appendix F information into WMS.

## Appendix G: Technical Assistance Needs

On the form provided, briefly describe specific types of technical assistance and/or training you may require from the OCFS or other state agencies in order to implement your plan.

## Appendix H: Memorandum of Understanding Between the Local District Attorney's Office and Child Protective Services

The district may provide a scanned copy of the memorandum or a narrative summary that outlines the cooperative procedures to be followed by the LDSS and the District Attorney's office in investigating incidents of child abuse and maltreatment, consistent with their respective obligations for the investigation or prosecution of such incidents and as otherwise required by law.

Chapter 156 of the Laws of 2000 (the Abandoned Infant Protection Act) went into effect in July 2000, and was amended effective August 30, 2010. It is intended to prevent infants being abandoned in an unsafe manner that could result in physical harm to the child. The following three conditions must be met under the law:

**1)** The abandoned infant is not more than 30 days old.

**2)** The person who abandons the infant must intend that the infant be safe from physical injury and be cared for appropriately.

**3)** The infant must be left with an appropriate person or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location.

A "suitable location" is not defined in the law. District Attorneys are to designate suitable locations where a child may be left with a responsible member of the staff at the location. Consideration is to be given to hospitals, staffed police stations, and staffed fire stations.

As this Act did not eliminate the responsibility for a mandated reporter to report the abandonment to the State Central Register of Child Abuse and Maltreatment (SCR), mandated reporters continue to be required to report such situations to the SCR and the Local Department of Social Services will continue to have the responsibility to conduct child protective services investigations as required by law in such reported cases.

As districts already have agreements with their District Attorneys, this agreement should be amended to include language referencing the Abandoned Infant Protection Act and outlining the procedures for jointly responding to cases that appear to fall within the parameters of that Act. The agreement should include a list prepared by the District Attorney of those places deemed appropriate as suitable locations under this Act. As part of this plan, each district should include verification that the District Attorney agreement has been amended to include a reference to this Act and should include the names, addresses, and phone numbers of all designated locations.

## Appendix I: 2012 Estimate of Persons to be Served

*(Required only if the social services district does not seek a waiver.)*

The Appendix I waiver is on the signature page (Appendix A).

## Appendix J: Non-Residential Domestic Violence Services

This appendix is required for all non-residential services to victims of domestic violence. A separate Appendix J is required for **each** non-residential service provider to victims of domestic violence program in the district. In designating an agency as a non-residential services provider for victims of domestic violence, the district must determine that this provider meets the standards defined in 18 NYCRR Part 462. Please refer to these regulations for complete information on staffing standards and other requirements.

As program information is included in Appendix J, remember that each program identified as a provider of non-residential services to victims of domestic violence must meet the following requirements:

- At least 70% of the clientele of the program must consist of victims of domestic violence and/or their children
- The program must directly provide the core services (see 18 NYCRR Part 462 for definitions)

Please note that legal assurances relating to the provision of non-residential services to victims of domestic violence have been included in Appendix A. These specify that the district must provide services regardless of the person's financial eligibility; must provide services in a manner that addresses ethnic composition of the community; must provide services in a manner that addresses needs of victims who are disabled, hearing impaired, or non-English speaking, and must provide services in a safe and confidential location.

## Appendices K through U – Child Care

The Child Care section of the county plan is designed to reflect the flexibility allowed in the delivery of child care services under a block grant model. It is structured to reflect both federal and State requirements while allowing districts to address locally defined needs and priorities.

Planning activities continue to support a partnership between the State and the district for meeting shared goals and outcomes. Child Care services covered in the county plan include the New York State Child Care Block Grant (NYSCCBG) and Title XX. The district has the option of including additional information as may be determined locally to clarify or strengthen the plan. The district is responsible for developing the Child Care Section of the county plan that will allow them to meet the needs of the community and to maximize the use of available funds.

Districts must use the forms for the Child Care section included in this packet, which is designed to be completed as an electronic document.

The Child Care section is divided into four required appendices and seven optional appendices as follows:

**Required Appendices:**

*Appendix K:* Administration

*Appendix L:* Other Eligible Families if Funds are Available

*Appendix M:* Reasonable Distance, Very Low Income, Family Share, Case Closings and Case Openings, Recertification Period, and Fraud and Abuse Control Activities

*Appendix N:* District Options

**Optional Appendices:**

*Appendix O:* Funding Set-Asides

*Appendix P:* Title XX for Low Income Child Care

*Appendix Q:* Additional Local Standards for Child Care Providers

*Appendix R:* Payment to Child Care Providers for Absences

*Appendix S:* Payment to Child Care Providers for Program Closures

*Appendix T:* Transportation, Differential Payment Rates, Enhanced Market Rates for Legally-Exempt, and Sleep

*Appendix U:* Child Care Exceeding 24 Hours, Child Care Service Unit, Waivers, Breaks in Activities

## Appendix K: Child Care Administration

Describe how the district is organized to administer the child care subsidy program.

- In the first section, identify which unit(s) is/are responsible for child care for different categories of families.
- In the second section, provide an estimate of how the district will use New York State Child Care Block Grant (NYSCCBG) subsidy funds.

  In the Total Block Grant Amount, provide an estimate of the district's NYSCCBG allocation, plus any local share. Then estimate the amount of funding that will be designated for subsidies to families, other program costs, and administrative costs. The total of these three amounts should add up to the total NYSCCBG amount.

  Allowable program costs include the following costs of providing child care services:

  – eligibility determinations and re-determinations;
  – participation in adjudicatory and judicial hearings;
  – child care placements, including transportation to such placements;
  – inspection, review, and supervision of child care placements, including monitoring compliance with any additional local child care requirements imposed;
  – training of LDSS staff; and
  – the establishment of computerized child care information systems.

  The district may spend no more than 5% of its annual block grant allocation for administrative activities. The term "administrative activities" does not include the costs of providing child care services as set forth above. Administrative activities include, but are not limited to, the following:

  – providing local officials and the public with information about the program;
  – conducting public hearings;
  – monitoring program activities for compliance with program requirements;
  – maintaining substantiated complaint files;
  – coordinating the resolution of audit and monitoring findings;
  – evaluating program results;
  – managing or supervising persons with responsibilities listed under allowable program costs;
  – traveling for official business in carrying out the program; and
  – obtaining goods and services required for the administration of the program, including rental or purchase of equipment, utilities, and office supplies.

- In the third section, a district must indicate if the district has a contract or formal agreement with another organization, provide the name of the organization, and the amount of the contract.

## Appendix L: Other Eligible Families if Funds are Available

Indicate other families, if any, that will be eligible under NYSCCBG and will be included as part of the county plan. If the district has elected to serve one or more of these families, they must be served as long as funds are available. Refer to Attachment 1, page 27, for a list of eligible families that are guaranteed child care, families that must be served if funds are available, and other eligible families that the district may serve if the funds are available and they have indicated in their county plan that they will serve these families.

On the form for Appendix L, select "Yes" in the column next to the category of eligible families the district will serve. Select "No" in the column next to the category of eligible families the district will **not** serve. Each category and sub-category should be addressed with either a "Yes" or "No." You may select "Yes" and "No" for subcategories under one optional category. For example, a district may elect to pay for child care services when the parent or caretaker is physically or mentally incapacitated, but not when the parent or caretaker has family duties away from the home. Describe any limitations that will be imposed on other eligible families the district has proposed to serve as part of its county plan.

## Appendix M: Reasonable Distance, Very Low Income, Family Share, Case Closings and Openings, Recertification Period, and Fraud Abuse and Control Activities

### Reasonable Distance

A recipient of public assistance benefits who has children under age 13 years of age needs child care in order to participate in required work activities. If the recipient is unable to find an appropriate and available child care provider within a reasonable distance from the recipient's home or work activity site, he/she cannot be penalized for failure to comply with work requirements.

A district is required by regulation to define "reasonable distance" in its county plan. Distance may be defined in terms of time and/or the distance in miles required for a public assistance recipient to travel from home to a work activity site with a stop at a child care provider. **The definition must be defined as a one-way trip, not a round trip**. Describe any processes or consultations that helped you arrive at your definition of reasonable distance.

### Very Low Income

Federal regulations require that two specific populations be prioritized: families with very low income and families with children who have special needs. In this section, define the term "very low income." "Very low income" may be defined as 200% of the State Income Standard (SIS) or at a lower percentage. The definition of very low income does not affect eligibility, but it does affect prioritization of categories of eligible families for NYSCCBG, with the exception of families who are eligible for a child care guarantee. If a district designates an amount less than 200% of the SIS as a definition of very low income, this lower percentage must be taken into account when prioritizing families for opening and closing cases.

### Family Share

The district must indicate the family share percentage it will use (from 10% to 35%). The State's sliding fee scale for the weekly family share of child care is calculated by applying the family share percentage to the excess of the family's gross annual income over the State Income Standard, divided by 52.

---

## Instructions for Case Closings and Openings

Describe the district's process for selecting cases that do not fall under the child care guarantee for closing and opening when insufficient or no funds are available. You must address the following:

1. federal priorities for families with very low income and families that have children with special needs;
2. locally identified priorities, if any; and
3. funding set-asides, if any.

Eligible families are defined in Child Care Technical Assistance #1. Determinations regarding closing cases and limiting case openings may only be made from the following two categories:

- families that are eligible as long as funds are available; and
- families that are eligible as long as funds are available and the district has listed these families as eligible in its **county plan**.

---

### Case Closings

Describe how the district complies with federally mandated priorities for "very low income" and families that have "child(ren) with special needs." You may want to consider whether Category 2 and Category 3 families (see Attachment 1, page 27) will be differentiated from one another in the selection process for case closings and whether particular families within each of these categories will be given priority over other families. For example, a district may choose to close cases from Category 3 before closing any cases from Category 2. In addition, if a district has selected to serve all potentially eligible families in Category 3, it may also elect to describe cases that would be closed first **within this category**. No cases will be closed based on insufficient funds for any family that falls under the child care guarantee.

When all available funds have been committed, either through set-asides approved in the district's county plan or because all of the available funds are projected to be needed for open cases, the district may discontinue funding to families that are not eligible for a child care guarantee and have lower priorities. If no priorities are established beyond the federally mandated priorities and all funds are committed, case closings for families that are not eligible under a child care guarantee and are not under a federally mandated priority must be based on the length of time they have received services. The length of time may be based on either the shortest or longest time the family has received child care services, but must be consistent for all

families. The district must specify in its county plan whether case closings will be based on the shortest or longest length of time families have received child care services.

A district may elect to place cases that have been closed due to insufficient funds on a waiting list. If additional funds become available, the process to open these cases should be included below in the district's definition of opening cases when limited funds are available.

### Opening Cases When Limited Funds are Available

Describe how to the district complies with federally mandated priorities for "very low income" and families that have a "child(ren) with special needs." Also describe how cases will be selected from all potential applicants if a limited amount of funds are available for case openings. Consider how the district will address cases that were closed due to insufficient funds.

Families must be given the opportunity to apply, even if there are insufficient funds to open their cases. A district may elect to place such families on a waiting list. If a district establishes a waiting list, the district must describe how cases will be selected from the list to be opened if additional funds become available.

### Recertification Period

Check the district's recertification time period – either six or twelve months.

### Fraud and Abuse Control Activities

Describe the district's fraud and abuse control activities for its child care subsidy program. Identify the criteria that will be used to determine which applications present a higher than acceptable risk for fraudulent or erroneous child care subsidy payments and describe the procedure for referring such applications to the district's front-end detection system.

Describe the sampling methodology the district uses to determine which cases require verification of applicants' or recipients' continued need for child care, including verification of participation in employment, education, or other required activities. The district cannot use criteria such as the age of provider, the gender of provider, a post office box address, or evidence that the child lives in the same residence as the provider as indicators in drawing the sample.

Also describe the district's sampling methodology for reviewing providers of subsidized child care services who are enrolled in the Child and Adult Care Food Program. The review will compare child care providers' attendance forms and Child and Adult Care Food Program inspection forms to verify that child care actually was provided on the days listed on the child care providers' attendance forms.

## Appendix N: District Options

Select the options, if any, the district wishes to establish in administering the child care subsidy program. Appendices O through V must be completed only if the district selected options associated with those Appendices.

Districts that use local equivalent forms in place of State forms must submit copies of the local forms. OCFS will review the forms to determine whether they meet all statutory and regulatory requirements. Previous approvals for local equivalent forms will **not** be carried

forward in this county plan. Any local equivalent forms you wish to establish or renew must be included in this plan and will be subject to review and approval by OCFS.

*Instructions for Optional Appendices*

## Appendix O: Funding Set-Asides

Complete this appendix if your district plans to set aside portions of its allocations to serve one or more of its priority populations. A district may choose to set aside a portion of funds or to set aside all of its NYSCCBG, including families eligible for a child care guarantee. A district may also set aside funds for Title XX child care.

Set-aside amounts should be based on a 12-month period. Amounts may be adjusted from one category to another without a plan amendment as long as the total adjustments in a calendar year do not exceed 10% of any category. All such adjustments require a page replacement and notification to the Office of Children and Family Services within 30 days of the adjustment. Adjustments exceeding 10% of any category require a plan amendment.

Indicate the categories of families and amount of money set aside. Explain why one category of families was selected over another category.

## Appendix P: Title XX Child Care

Complete this appendix if your district is utilizing Title XX funds to provide child care to low-income families. Describe anticipated expenditures, financial eligibility limits, and financial and programmatic eligibility. Also describe local priorities, if any, for Title XX child care.

If the district is utilizing Title XX funds **only** for child protective and/or preventive cases, do not include financial eligibility limits, as child care services in these instances are provided without regard to income.

## Appendix Q: Additional Local Standards for Child Care Providers

Complete this appendix if your district will require additional local standards for legally-exempt families and in-home or legally-exempt group child care providers. Describe the additional local standards and the justification for them. Additional local standards cannot supersede State regulations or State requirements. Describe how these additional local standards will be met and monitored. A district may make participation in the Child and Adult Care Food Program a condition of enrollment for legally-exempt providers who will be providing an average of more than 30 hours of care per week to one or more subsidized children.

Include in this appendix the district's procedures for notifying the legally-exempt caregiver's enrollment agency if the district determines that the provider is not in compliance with the additional local standard. Any additional standards established by a district may not extend the timeframes for the legally-exempt caregiver enrollment agency to review the enrollment package.

A district may not incur costs associated with additional local standards that, under the legally-exempt enrollment regulations, will be funded by OCFS through direct contract with the enrollment agency. OCFS cannot reimburse a district for services that duplicate activities already funded through a different mechanism.

Any previous approvals for additional local standards will not be carried forward into this county plan. Therefore, any additional local standards a district wishes to establish or renew must be included in this plan and will be subject to review and approval by OCFS.

## Appendix R: Payment to Child Care Providers for Absences

Complete this appendix if the district has opted to pay for absences only to licensed, registered, or legally-exempt group child care providers with which the district has a contract or letter of intent or to all providers of subsidized child care services, except for legally-exempt family child care providers and legally-exempt, in-home child care providers. A district must describe the types of child care providers that are eligible to receive payment for absences, the reasons for absences, whether it will require a contract or letter of intent, and any limitations placed on providers who will be eligible for payment for absences.

While regulations state the maximum number of absences allowed, a district may choose a lower limit on the number of paid absences it will allow during its base period. A district must choose a base period of three months or six months for determining the number of allowable absences.

The following chart summarizes the maximum allowable limit for which reimbursement for payment for temporary absences from child day care may be claimed.

| **Period** | **Routine limits** (# of days) | **Extenuating circumstance(s)** (# of days) | **Total # of absences allowed** (# of days) |
|---|---|---|---|
| 1 month | 12 | 3 | 15 |
| 3 months | 12 | 8 | 20 |
| 6 months | 24 | 16 | 40 |

## Appendix S: Payment to Child Care Providers for Program Closures

Complete this appendix if the district has opted to pay for program closures only to licensed, registered, or legally-exempt group child care providers with which the district has a contract or letter of intent or to all providers of subsidized child care services, except for legally-exempt family child care providers and legally-exempt, in-home child care providers. Select which type of child care providers are eligible to receive payment for program closures and indicate whether or not the district will require a contract or letter of intent for payment of program closures. State the maximum number of program closures the district will allow per year and the number of program closures for which it will provide payment. While regulations set the maximum number of program closures at five days, the district may choose a lower limit for the number of program closures for which it will pay.

## Appendix T: Transportation, Differential Payment Rates, Enhanced Market Rate for Legally-Exempt and In-Home Providers, and Sleep

### Transportation

Complete this section if the district will make payments to eligible families for transportation to and from a child care provider. A district will be reimbursed for transportation expenses charged by a child care provider that are separate and apart from the regular rate charged by the provider. Also, the district may make arrangements using other providers of transportation services. Expenditures for transportation are reimbursed as a program cost under the district's NYSCCBG allocation. Indicate on Appendix F under transportation (column 20) if the district will pay for transportation costs.

### Differential Payment Rates

Complete this section if the district has established differential payment rates above the market rate for child care services provided by licensed and registered child care providers that have been accredited by nationally recognized child care organizations. Nationally recognized organizations that provide such accreditation include the National Association for Education of Young Children (NAEYC), the National Association for Family Child Care (NAFCC), and the National School Age Child Care Association (NSACCA).

Also complete this section if the district has established differential payment rates for child care services that are provided during non-traditional hours (evenings, nights, or weekends). Provide this rate for all types of providers, as federal regulations do not allow rate setting that would limit access to a full range of providers.

---

Differential payment rates established by districts may be up to 15% higher than the applicable market rates. The differential payment rates for accredited programs may be different from the rates for care provided during non-traditional hours.

There can be a total of only 15% in differential payments to any one provider. For example, a provider who is nationally accredited and who also provides child care for non-traditional hours is eligible only for a maximum of 15% above the market rate for the respective type of care and age of the child.

A district may establish a payment rate that is more than 15% above the applicable market rate if this level is necessary to provide access to accredited programs or care provided during non-traditional hours. The district must describe why the 15% maximum is insufficient to provide access and state the percentage above the market rate it proposes to use.

---

### Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers

Indicate if the district is electing to establish a payment rate that is in excess of the enhanced market rate for legally-exempt family and in-home child care providers who have annually

completed 10 or more hours of training and the training has been verified by the legally-exempt caregiver enrollment agency. This rate cannot exceed 75% of the child care market rate established for registered family day care.

### Sleep

Complete this section if the district will pay for child care services to provide sleep time for a parent or caretaker who works a second or third shift. A district can pay for up to eight hours of child care services while a parent or caretaker sleeps. A district must describe the criteria used in determining the need to pay for child care while a parent or caretaker sleeps and the number of hours the district will allow.

## Appendix U: Child Care Exceeding 24 Hours, Child Care Services Unit, Waivers, and Breaks in Activities

### Child Care Exceeding 24 Hours

Complete this section if the district will pay for child care services that exceed 24 consecutive hours when such services are provided on a short-term basis or when the parent/caretaker's approved activity necessitates care for 24 hours on a limited basis. Describe any limitations the district establishes in determining whether to pay for child care services that exceed 24 consecutive hours.

### Child Care Services Unit (CCSU)

Complete this section if the district has chosen to include 18-, 19-, and/or 20-year-olds in the Child Care Services Unit (CCSU). The CCSU is the basis the district uses to determine family size and countable family income. A district may elect to always include 18-, 19-, and/or 20-year-olds in the CCSU or to include them only when it would benefit the family. A district that elects to include 18-, 19- or 20-year-olds in the CCSU only when it benefits the family must describe the criteria used to determine this benefit.

### Waivers

Complete this section if the district is requesting a waiver of any regulatory provision that is non-statutory. Describe the regulatory provision that the district wishes to have waived. The waiver must be approved by OCFS before implementation.

### Breaks in Activities

Complete this section if the district will pay for child care services for low-income families during breaks in activities. This can be for a period not to exceed two weeks or for a period not to exceed one month when child care arrangements would otherwise be lost and the subsequent activity is expected to begin within that period.

A district may provide child care services during a break between activities or while the caretaker is waiting to enter an approved activity or employment.

### Child Care Technical Assistance

See technical assistance documents "Eligible Families" (Attachment 1, page 27) and "Limiting Eligibility for Other Eligible Families if Funds are Available," (Attachment 2, page 31).

## Appendix V: Persons in Need of Supervision (PINS) Diversion Services

The PINS Reform Law (Chapter 57 of the Laws of 2005) required that the Local Department of Social Services (LDSS) Consolidated Services Plan or the Child and Family Services Plan (Integrated County Plan) include a Persons In Need of Supervision (PINS) diversion services portion of that plan. This requirement applies to all counties and supports increased services to PINS youth and families, reduced use of detention, and collaboration to develop productive responses to status offenders and their families.

Please note that the information in this form is specific to the PINS Diversion population and process in your county, **not** to the post-petition PINS population or the Juvenile Delinquency (JD) population.

### 1. Designation of a Lead Agency

Counties should configure their PINS Diversion services according to their individual efficiencies and strengths. The designation may be changed in the future through an update to the plan or at the time of the next plan submission. While is the LDSS is required to identify one lead agency, cooperative procedures may determine that require other agencies to perform certain functions or services.

### 2. Inventory of PINS Diversion Service Options

List PINS Diversion services that are available in your district and indicate whether a service gap exists. Respite programming may already be available through LDSS preventive services, other state agencies, or local providers. Counties may have existing RHYA programs, which are authorized to provide respite and/or "crisis intervention" services as additional services. Counties may coordinate efforts with providers to establish regional services. The Office of Court Administration (OCA) supports conflict resolution programs in counties. For more information, contact Uniform Court Services, State Alternative Dispute Resolution Office at 518-238-2888, ext. 234.

### 3. PINS Diversion Procedures

Record the agency that is responsible for each procedure and a brief description of how each procedure will be provided.

### 4. PINS Diversion Services Plan Narrative

Briefly describe the organizations in the county that have been involved to date in the PINS Diversion planning process. Schools, law enforcement officials, and the local family court are critical partners. Respite service providers, youth bureaus, detention facilities, and others also are important to the planning process.

### 5. Needs Assessment

Include a summary of the data and the analysis used to determine the needs of the PINS Diversion population. List data sources (e.g., Communities That Care, Youth Assessment and Screening Instrument aggregate reports, PINS/complaint [source or type] information, status at closing, cases referred for petition, etc). Specify whether the findings relate to county, city, town, neighborhood, school or other specific groups within the PINS Diversion population. Describe and any conclusions drawn or changes made to strategies to address the needs of this population. Data collected through the needs assessment process can be useful in selecting outcomes in the next section.

### 6. Outcomes

List desired changes in community, family, or individual behaviors or conditions in terms that are specific, measurable, achievable, realistic, and timely. Outcomes should be derived from the aggregate needs, and could include specific populations (e.g., truants, ungovernable youth, females, males, Special Education youth); specific PINS Diversion processes (e.g., pre-PINS collaborative work, improved service timelines, improved services, focus on evidence based interventions); or aggregate data based outcomes (e.g., reduced number of PINS referred to petition, reduced parental PINS, reduced school PINS, or reduction in specific YASI risk assessment scores). It is important to note that the outcomes in this section are **only** for the PINS Diversion population and/or process.

## Attachment 1: Child Care Technical Assistance – Eligible Families

Families are eligible for child care services under the New York State Child Care Block Grant (NYCCBG) program if the family meets one or more of the following criteria:

1. **Families which are guaranteed child care.** A social services district must guarantee child care services to a family which meets the criteria set forth below regardless of whether the social services district has any State or federal funds available under the NYSCCBG program to pay for all or a portion of the child care costs.

   **e.** A social services district must guarantee child care services to a family that has applied for or is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 12 NYCRR Part 1300.

   **f.** A social services district must guarantee child care services to a family that is receiving public assistance when such services are needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

   **g.** A social services district must guarantee child care services to a family that has applied for and would otherwise be eligible for public assistance benefits or was in receipt of public assistance and voluntarily closed their public assistance case while still eligible for public assistance, when:

   (1) child care is needed for a child under 13 years of age in order to enable the child's parent(s) or caretaker relative(s) to be employed for at least the number of hours that would be required if the family were in receipt of public assistance; and

   (2) the family is eligible for public assistance but chooses to receive child care services in lieu of public assistance.

   **h.** A social services district must guarantee child care services for a period up to 12 consecutive months after the month in which the public assistance case closed or, for those who chose child care in lieu of public assistance, the month after the family is no longer financially eligible for public assistance, provided:

   (1) the case closed or the family became financially ineligible for public assistance due to increased income from either employment or child support; or because the family voluntarily ended their public assistance case and their income is no longer within public assistance standards;

   (2) the family received public assistance in at least three of the six months immediately preceding the case closing; or, for a family which chose child care in lieu of public assistance, was eligible for public assistance in at least three of the six months immediately preceding their ineligibility for public assistance;

(3) the family includes an eligible child that is under the age of 13 and needs child care services in order to enable the child's parent(s) or caretaker relative(s) to be employed; and

(4) the family has income at or below 200 percent of the applicable State income standard

2. **Families which are eligible when funds are available.** A social services district must provide child care services to a family eligible under this category, to the extent that the district continues to have funds available under either the district's allocation from the New York State Child Care Block Grant program or any local funds appropriated for such program, subject to any priorities or set asides as approved by the Office of Children and Family Services.

   **a.** A family which has applied for or is receiving public assistance when child care services are needed for an eligible child who is age 13 years or older and who has special needs or is under court supervision, in order to enable the child's parent(s) or caretaker relative(s) to participate in activities required by a social services official including orientation, assessment, or work activities as defined in 12 NYCRR Part 1300.

   **b.** A family receiving public assistance when child care services are needed for an eligible child who is age 13 years or older and who has special needs or is under court supervision in order to enable the child's parent(s) or caretaker relative(s) to engage in work as defined by the social services district.

   **c.** A family receiving public assistance when child care services are necessary:

   (1) to enable a teenage parent to attend high school or an equivalency program; or

   (2) for the child to be protected because the child's parent(s) or caretaker relative(s) is physically or mentally incapacitated or has family duties away from home necessitating his or her absence.

   **d.** A family with income up to 200 percent of the State income standard which is at risk of becoming dependent on public assistance when child care services are needed:

   (1) for the child's caretaker(s) to be employed; or

   (2) to enable a teenage parent to attend high school or an equivalency program.

3. Families which are eligible if funds are available and if the social services district has listed such families as eligible in the district's Child and Family Services Plan. The following families are eligible provided the social services district has listed such families as eligible families in the district's Child and Family Services Plan and the district continues to have funds available from the NYSCCBG or any local funds appropriated for such program:

**a.** A family receiving public assistance when child care services are necessary for a parent or caretaker relative to participate in an approved activity in addition to their required work activity.

**b.** A family receiving public assistance when child care services are necessary for a sanctioned parent or caretaker relative to participate in unsubsidized employment whereby the parent or caretaker relative receives earned wages at a level equal to or greater than the minimum amount required under federal and State labor law.

**c.** A family receiving public assistance or with income up to 200 percent of the State income standard when child care services are needed for the child to be protected because the child's caretaker is:

(1) participating in an approved substance abuse treatment program or in screening for an assessment of the need for substance abuse treatment;

(2) homeless or receiving services for victims of domestic violence and needs child care in order to participate in an approved activity or in screening for or an assessment of the need for services for victims of domestic violence; or

(3) in an emergency situation of short duration including, but not limited to, cases where the caretaker's absence from the home for a substantial part of the day is necessary because of extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters or providing chore/housekeeper services for an elderly or disabled relative.

**d.** A family with income up to 200 percent of the State income standard when child care services are needed for the child to be protected because the child's caretaker(s) is physically or mentally incapacitated or has family duties away from home necessitating his or her absence.

**e.** A family with an open child protective services case when it is determined on a case-by-case basis that such child care is needed to protect the child.

**f.** A family with income up to 200 percent of the State income standard when child care services are needed for the child's caretaker(s) to participate in one of the following activities provided such activity is an allowable activity set forth in the social services district's Child and Family Services Plan and the district determines that the activity is necessary part of a plan for the family's self-support:

(1) actively seek employment for a period of up to six months as established by the social services district in its Child and Family Services Plan, if the caretaker documents that he or she is currently registered with a New York State Department of Labor Division of Employment Services Office, provided that the child care services will be available only for the portion of the day the family is able to document is directly related to the caretaker engaging in such activities; or

(2) education or vocation activities including attendance in one of the secondary or post-secondary programs allowable under Part 415 of the State regulations.

**g.** A family receiving public assistance or with income up to 200 percent of the State income standard when child care services are needed for the child's caretaker(s) to attend a two year program other than one with a specific vocational sequence leading to an associates degree or certificate of completion, or a four year college or university program leading to a bachelor's degree provided:

(1) the program is reasonably expected to improve the earning capacity of the caretaker;

(2) the caretaker is and continues to participate in non-subsidized employment whereby the caretaker works at least 17 ½ hours per week and earns wages at a level equal to or greater than the minimum amount required under federal and State labor law while pursuing the course of study; and

(3) the caretaker can demonstrate his or her ability to successfully complete the course of study.

## Attachment 2: Child Care Technical Assistance – Limiting Eligibility for Other Eligible Families if Funds are Available

Districts may choose to serve all of these other eligible families, none of these other eligible families, some of these other families, or may add criteria that may limit eligibility within any of the Category 2 and Category 3 descriptions provided in Attachment 1.

The following is a partial list of ways a district may choose to limit eligibility within categories.

### Time Limitations

Districts may choose to limit eligibility by setting certain time limitations. For example, districts may choose to support certain activities for a period of time that is shorter than the allowable State maximum. One example of this is seeking employment. Although State reimbursement is available for districts choosing to cover child care for a period of up to six months while a parent looks for work, a district could choose to cover this activity for a shorter period of time such as three months.

### Restricting Programmatic Eligibility

Districts may wish to modify one or more categories of eligibility. For example, although reimbursement is available for a long list of educational activities, districts may decide that they can only support certain educational activities. For example, districts may limit educational activities to basic remedial education. Alternatively, districts may choose to pay for educational activities only in combination with another activity such as part-time work.

### Restricting Income Eligibility

Districts may wish to restrict income eligibility to certain families. Although families with income up to and including 200 percent of the State income standard are financially eligible for subsidies through the NYSCCBG, districts may set different financial eligibility limits for the optional categories of other eligible families. For example, the district could limit eligibility for individuals who are attending a two-year college program to an income less than 200 percent of the State income standard.

### Eligibility Until Funds Run Out

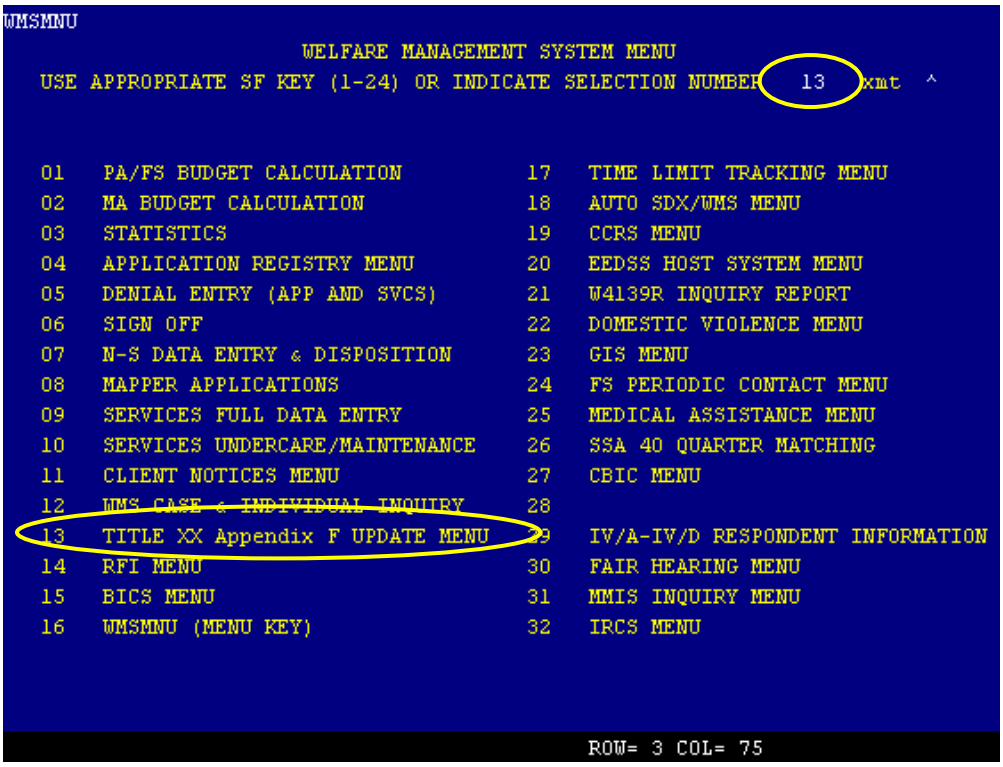
Districts may wish to serve some categories of families up to a certain amount of funds per year. For example, a district could set aside funds for families in substance abuse treatment programs. Families who apply for child care for this purpose would be eligible as long as they meet eligibility criteria and as long as the district has funds available in the set-aside. Once the set-aside is exhausted, no additional families would be authorized under this category. If a category of eligibility will be limited by set-aside funds, Appendix G-6, Attachment 2-Funding Set-Asides, must be completed.

## Attachment 3: Updating Title XX Matrix in the Welfare Management System

To complete the Title XX matrix in WMS, follow the steps below.

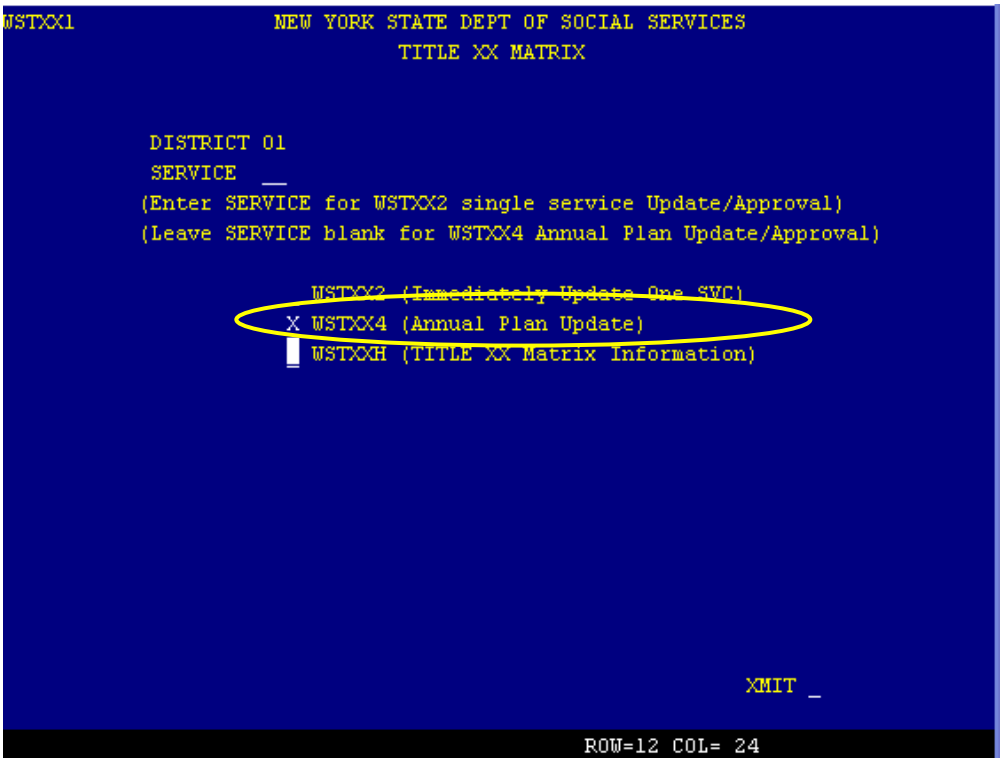
### STEP 1

From the "Welfare Management System Menu" main page, type **13** next to **INDICATE SELECTION NUMBER** and transmit.



## STEP 2

Select **WSTXX4** to update the Comprehensive Service Plan Title XX Matrix (Appendix F) for both annual and five-year plans. Leave the "Service" line blank and transmit.



## STEP 3

The **WSTXX4** screens take the place of the paper spreadsheets that the districts used to fill in manually. There are five (5) services screens in **WSTXX4**. The district will not be able to access the State-mandated fields. Review the data on each of the screens and make any changes necessary.

```
WSTXX4                NEW YORK STATE DEPT OF SOCIAL SERVICES      PAGE 01 OF 05
EFF DATE 03/02/11           TITLE XX MATRIX INQUIRY
                            COUNTY 01 ALBANY

SVC   -GOALS-   -MOP-   -------------------ELIGIBILITY------------------------
     1 2 3 4 5  1 2 3   01 02 03 04 05 06 07 08 09 13 14
       PERCENT             (1)      (2)      (3)      (4)      (5)      (6)
01   N Y Y Y N  Y N Y    Y  Y  Y  Y  N  Y  Y  Y  Y  Y  Y
   999.99 / 999.99        999999   999999   999999   999999   999999   999999

04   N N N N N  N N N    N  N  N  N  N  N  N  N  N  N  N
   000.00 / 200.00        000000   000000   000000   000000   000000   000000

05   N N N N N  N N N    Y  N  Y  N  N  N  N  N  N  N  N
   000.00 / 200.00        000000   000000   000000   000000   000000   000000

06   Y Y Y Y Y  Y N N    Y  Y  Y  Y  Y  Y  Y  Y  Y  Y  N
   000.00 / 200.00        000000   000000   000000   000000   000000   000000

07   N N Y Y N  Y N N    Y  N  Y  Y  Y  Y  Y  Y  N  Y  Y
   150.00 / 150.00        016245   021855   027465   033075   038685   044295

NOTE:-                                                          XMIT
NO UPDATES POSSIBLE
                                                   ROW=23 COL= 75
```

## STEP 4

After the data is updated, **each screen** must be transmitted to the State. When all five screens have been transmitted, the State is notified via an automatic e-mail that the District record is available for review.

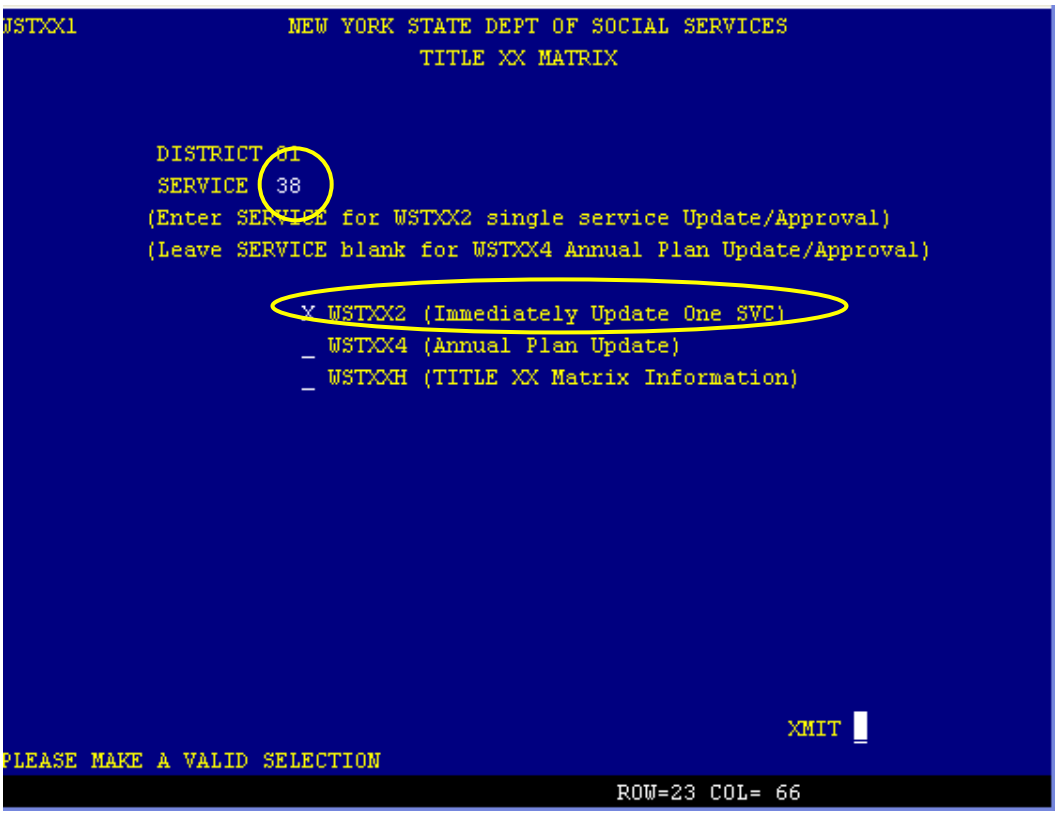
### Single Service Update

You can use the **WSTXX2** code to make an immediate change to a single service. This may be done either during the Title XX Matrix (Appendix F) Update or at any time it is necessary.

**For a Single Service update, take STEP 1 as before.**

## STEP 2

Enter the **Service Code** to be updated in the "SERVICE" field and select **WSTXX2** from the menu.




The following DIRECT services may be reviewed for possible update:

01 Adoption Services
04 Education
05 Employment
06 Family Planning
07 Placement Services for Adults
08 Foster Care – Children
09 Health Related
10 Home Management
11 Homemaker
12 Housekeeper/Chore
13 Housing Improvement
14 Information and Referral
15 Preventive – Adults
16 Protective – Adults
17 Protective – Children
20 Transportation
21 Unmarried Parents
22 Personal Care Services
23 Services to Victims of Domestic Violence
25 Preventive – Children (mandated)
26 Preventive – Children (non-mandated)
38 Child Care (all service types)

## STEP 3

```
WSTXX2      NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES  04/29/11
                          TITLE XX MATRIX **UPDATE**              10:34:12
                            COUNTY 01  ALBANY
       SERVICES 38    LAST TRANSACTION  00/00/00

GOALS  1 2 3 4 5      PROVISION METHOD  1 2 3
       Y Y Y Y N                        Y N Y

     ELIGIBILITY 01 02 03 04 05 06 07 08 09 13 14
                  Y  Y  Y  Y  Y  Y  Y  Y  Y  Y  Y

NON-DAYCARE
    PERCENTAGE
    FAMILY SIZE             (1)    (2)    (3)    (4)    (5)    (6)
    INCOME LIMIT

DAYCARE
    FEE PERCENTAGE 015.00 / 100.00
    FAMILY SIZE             (1)    (2)    (3)    (4)    (5)    (6)
    PERCENTAGE             275.00 275.00 275.00 275.00 275.00 275.00
    INCOME LIMIT           029783 040068 050353 060638 070923 081208

NOTE:-_____________________________________    SUBMIT _            XMIT ^
STATE DAYCARE PRCNT - 200.00 275.00 255.00 225.00 225.00 225.00
                                            ROW=23 COL= 75
```

Enter “Y” (yes) or “N” (no) for Goals, Provision Method, and Eligibility categories and then update the data in the table in the bottom part of the screen.

### Goals

| | | |
|---|---|---|
| 01 Self Support | 02 Self-Care (Self-Sufficiency) | 03 Prevention/Protection |
| 04 Community Based Care | 05 Institutional Care | |

### Provision Method

| | | |
|---|---|---|
| 1 Direct | 2 POS Public | 3 POS Private |

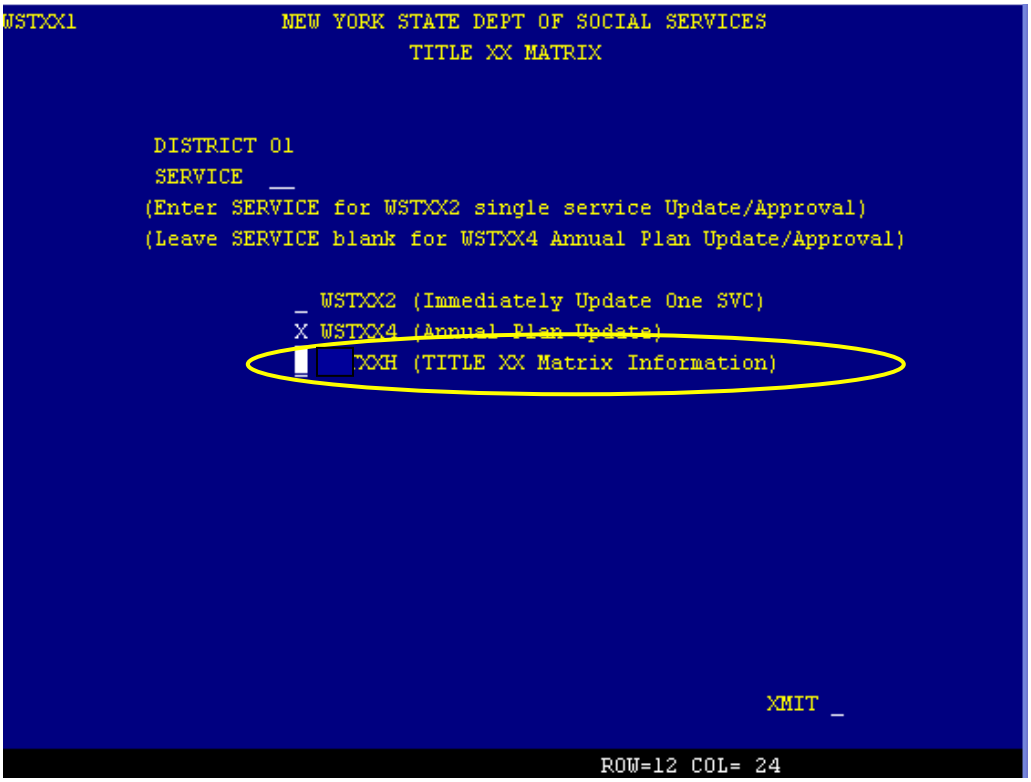
### Eligibility

01 IVE Determination Pending
02 FCAA (IV-E)
03 TANF
04 EAF
05 SSI – Aged
06 SSI – Blind
07 SSI – Disabled
08 MA
09 Refugee Assistance Program – Unaccompanied Refugee Minor
13 Home Relief – SNA
14 Eligibility to be determined by income (non-categorical)
19 Not eligible due to income (system-generated)

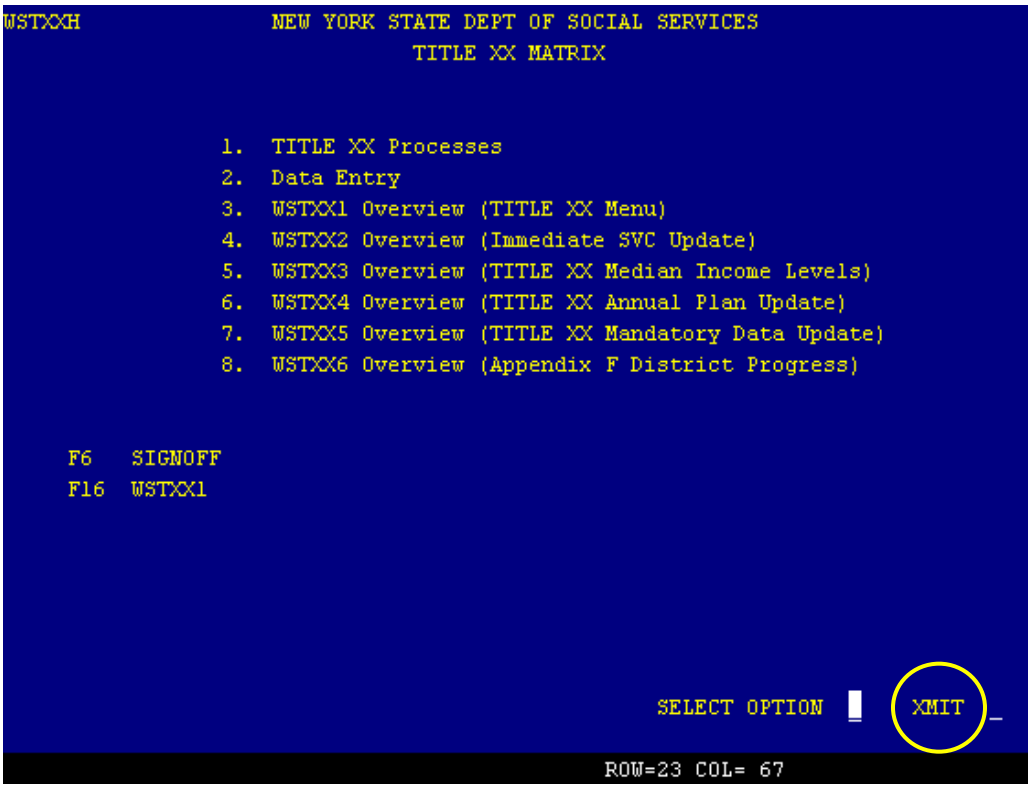
When changes are complete, submit the changes for review by entering a "Y" in the **SUBMIT** field and transmitting. The State is notified via an automatic e-mail that the district record is available for review. The State's reply is automatically sent to the district worker who submitted the changes. If the yearly Title XX Matrix (Appendix F) update is in progress, the changes will be applied to those pending records. Otherwise, the changes are immediately applied to the WMS Title XX database.

### WMS Information

For information on the Title XX Matrix Update Screens, select **WSTXXH** from the main screen.



Choose the topic number you wish, enter it in the **SELECT OPTION** and transmit.



# 14-OCFS-LCM-01
# *Website Postings of Changes to Child Care Services*

The purpose of 14-OCFS-INF-01, *Website Postings of Changes to Child Care Services* is to advise social services districts (districts) of a new public notice requirement when a district proposes an amendment to the child care portion of its Child and Family Services Plan (CFSP) that reduces eligibility or increases the family share percentage and when a district implements its child care case closing process under its approved CFSP.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-01 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | April 15, 2014 |
| **Subject:** | **Website Postings of Changes to Child Care Services** |
| **Contact Person(s):** | Michael A. Miller (518) 408-3395<br>Michael.Miller@ocfs.ny.gov |
| **Attachments:** | No |
| **Attachment Available Online:** | N/A |

## I. Purpose

The purpose of this Local Commissioners Memorandum is to advise social services districts (districts) of a new public notice requirement when a district proposes an amendment to the child care portion of its Child and Family Services Plan (CFSP) that reduces eligibility or increases the family share percentage and when a district implements its child care case closing process under its approved CFSP. In addition to the public notice requirement for a plan amendment found in Title 18 of New York Code of Rules and Regulations (NYCRR) §407.10, a district will now be required to post to its website in a prominent place any proposed plan amendment that reduces eligibility or increases the family share percentage for child care services. Furthermore, any district that implements the process for closing child care cases, as set forth in its approved CFSP, must also prominently post a notice of such action to its website at the time the district begins to notify affected families. Any such notice must describe the categories of families whose cases will be impacted. A district will also be required to provide a copy of any such notice to the New York State Office of Children and Family Services (OCFS) for posting on the OCFS website.

## II. Background

Title 18 of NYCRR §407.10 allows a district to propose amendments to its consolidated services plan or integrated county plan (now referred to as the CFSP) at any time. If a reduction in services, change in eligibility, or change in fees is proposed, the amendment must be published for public comment and be presented to the local advisory council for review, prior to its submission to OCFS. A district is required to provide sufficient time for the public to make comments. OCFS has advised districts that 30 days following publication provides a sufficient time period for public comments. There currently is no public notice requirement related to a district implementing the child care case closing process set forth in its CFSP.

## III. Program Implications – Effective April 28, 2014

If a district proposes an amendment to the child care portion of its CFSP that reduces eligibility or increases the family share percentage for child care services, in addition to complying with the public notice requirements found in 18 NYCRR § 407.10, the district also must:

- no later than the first day the public notice appears in a newspaper, prominently post on the district's website a notice of the proposed amendment describing the categories of families whose cases will be impacted; and
- at the time the public notice is submitted to the newspaper for publication, provide a copy of such notice to OCFS.

In addition, if a district implements its process for closing child care cases, as set forth in its approved CFSP, due to the district determining that it cannot maintain its current caseload because all of the available funds are projected to be needed for open cases, the district must:

- no later than the day the district begins to send individual notices to impacted families that their child care cases will be closed, prominently post a notice on the district's website that the district is implementing the child care case closing process set forth in its approved CFSP and describing the categories of families whose cases will be closed; and
- immediately provide OCFS with a copy of such notice.

OCFS will prominently post copies of each such notice on its website (ocfs.ny.gov).

*/s/ Janice M. Molnar, Ph.D.*

**Issued By:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

# 13-OCFS-INF-04
# *Child Care Subsidy Program Improper Authorization for Payment*

The purpose of 13-OCFS-INF-04 is to inform local social services districts (districts) of the results of a comprehensive review of child care subsidy cases that was performed by the Office of Children and Family Services (OCFS), Office of Audit and Quality Control (AQC) during 2012, and to help prepare districts for the next review.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 13-OCFS-INF-04 |
| **To:** | Commissioners of Social Services |
| **Issuing Division/Office:** | Division Of Administration<br>Division of Child Care Services |
| **Date:** | March 29, 2013 |
| **Subject:** | **Child Care Subsidy Program Improper Authorization for Payment Review** |
| **Suggested Distribution:** | Directors of Services<br>Supervisors of Services<br>Child Care Assistance Staff<br>Accounting |
| **Contact Person(s):** | Questions pertaining to the Improper Authorization for Payment Review:<br>Christopher Covas, Office of Audit and Quality Control<br>(212)-383-1967, Christopher.Covas@ocfs.ny.gov<br>Questions pertaining to the Child Care Subsidy Program:<br>Rhonda Duffney, Division of Child Care Services<br>(518)474-9454, Rhonda.Duffney@ocfs.ny.gov |
| **Attachments:** | No |
| **Attachments Available Online:** | No |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 10-OCFS-INF-04 | | 18 NYCRR Parts 404 and 415 | SSL Section 410<br>45 CFR, Parts 98 and 99 | | |

## I. Purpose

The purpose of this Informational Letter (INF) is to inform local social services districts (districts) of the results of a comprehensive review of child care subsidy cases that was performed by the Office of Children and Family Services (OCFS), Office of Audit and Quality Control (AQC) during 2012, and to help prepare districts for the next review.

## II. Background

The Improper Authorization for Payment Review was conducted by AQC pursuant to the requirements of the federal Improper Payments Information Act of 2002, which mandates that federal agencies review programs and activities that may be susceptible to significant improper payments. Additionally, Title 45, Parts 98 and 99 of the Code of Federal Regulations, requires states to measure, calculate and report improper payments, and to identify strategies for reducing future improper payments. Based on these requirements, the Office of Child Care of the Department of Health and Human Services' Administration for Children and Families (ACF) directed all states to review their respective child care subsidy programs to measure improper authorizations for payment of child care subsidies. In accordance with instructions received from ACF, OCFS selected for review a random sample of 276 child care subsidy authorizations, which were divided into twelve monthly sampling frames of 23 child-specific authorizations for payment covering the period October 1, 2010 through September 30, 2011.

The methodology for measuring improper authorizations for payment focused on client eligibility and employed a case record review process to determine whether child care subsidies were properly authorized. Eligibility determination and authorization are the first steps in the child care subsidy process and mistakes made at this stage of the process can result in the needless expenditure of federal, state and local funds.

Because the U.S. Department of Health and Human Services requires that the reviews be conducted every three years, AQC will initiate another review in 2014 that will focus on child care subsidy cases authorized for one or more months during the period October 1, 2013 through September 30, 2014. The subsidy cases randomly selected for the review in 2012 involved authorizations performed by 31 local districts. It is likely that some districts that did not have any cases selected for the 2012 review will have cases selected for the next review, due to the random nature of the sampling process. Therefore, it is important that all districts be prepared for the next review.

## III. Findings

During the Improper Authorization for Payment Review, 173 cases were reviewed in New York City and 103 cases in the rest of the state. Statewide, the error rate was 42%. The rate of one or more errors per case was 47% in New York City, as compared to 34% for the rest of state.

Of the 117 sample cases that were cited with at least one error of any type, 82 (70%) were New York City cases. Of a total of 35 authorization errors across the state as a whole, 25 (71%) were New York City cases.

Not all districts had child authorizations included in the sample as a result of the random selection process. There will be a new sample selected for the next review, covering the period October 1, 2013 through September 30, 2014. AQC urges that, moving forward, all districts more carefully perform eligibility determinations and fully document circumstances leading to child care subsidy authorizations. The failure of some districts to accurately determine whether caretakers were engaged in an approved activity, such as employment, training or education, and their failure to fully document those determinations, were among the more frequent and critical errors found.

Many other types of errors were also made that resulted in over-authorizations being identified by AQC and reported to ACF. The following is a list of the types of errors identified by AQC during the review:

**Errors Identified by AQC during the Improper Authorization for Payment Review**

**New York City**

| Error Type* | Count |
|---|---|
| *Eligibility Determination Error*: Insufficient evidence that child care was needed in a two-parent family | 27 |
| *Administrative Error*: Unapproved local equivalent application and/or recertification form | 24 |
| *Eligibility Determination Error*: Insufficient evidence that full-day time child care was needed in a two-parent family | 22 |
| *Eligibility Determination/Authorization Error:* Missing Case Record (or portion of the case record containing information related to the authorization for payment was not available for review) | 8 |
| *Eligibility Determination Error*: Full-time care incorrectly authorized when part-time care was warranted based on documentation provided | 7 |
| *Eligibility Determination Error*: Insufficient documentation that part-time care was needed | 7 |
| *Eligibility Determination Error*: Income and family share determined using the required number of weeks of paycheck stubs, but the stubs were not for consecutive weeks | 6 |

| Error Type* | Count |
|---|---|
| *Eligibility Determination Error*: When income fluctuated significantly, gross annual income not calculated based on a 3- to 6-month period, as required | 5 |
| *Family Share Calculation Error* | 3 |
| *Administrative Error*: Recertification form missing data or signature | 3 |
| *Miscellaneous Other Errors* | 7 |
| **Total Number of Errors*** | **119** |

* More than one error type may be cited for a given error. Two cases had more than one error. For example, failing to include all required paystubs in the income eligibility determination also impacts the family share calculation.

**Rest of State**

| Error Type* | Count |
|---|---|
| *Eligibility Determination Error*: When income fluctuated significantly, gross annual income not calculated on a 3- to 6-month period, as required | 9 |
| *Administrative Error*: Unapproved local equivalent application and/or recertification form | 7 |
| *Administrative Error*: Recertification form missing data or signature | 6 |
| *Family Share Calculation Error* | 5 |
| *Miscellaneous Other Errors* | 10 |
| **Total Number of Errors*** | **37** |

* More than one error type may be cited for a given error. Two cases had more than one error.

## IV. Future Action

The next review to be conducted will involve child care subsidy payments made for services provided during the review period October 1, 2013 through September 30, 2014. Please note that the basis of sample selection has been changed from child care authorizations to child care payments. AQC will be using a different sampling frequency for the next review, which will allow it to more easily comply with federal timelines for completion of various phases of the review, including completion of the field work and submission of the final report. Instead of performing two semiannual reviews, each

consisting of six monthly sampling frames, when practical, AQC will perform monthly reviews, each consisting of a monthly sampling frame consisting of 23 child-specific payments. Once again, a total of 276 monthly payments will be reviewed. AQC expects to commence the first monthly review in January 2014. All districts with child care subsidy payments that are selected for review will be contacted by telephone and in writing prior to the on-site review so that AQC auditors can make appropriate logistical arrangements. Since the next review will focus on payments, guidance will also be forthcoming on the procedures for recouping payments resulting from overpayment errors.

It is important that prior to the start of the next review period, all districts review their respective child care subsidy programs to determine if any of the errors cited in this INF are occurring in their programs. If any such errors are noted, appropriate remedial action should be implemented immediately.

*Janice M. Molnar, Ph.D.*

**Issued By:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

*Mikki Ward-Harper*

**Issued By:**
Mikki Ward-Harper
Acting Deputy Commissioner for Administration
Division of Administration

# 14-ADM-05

# *Automated Information Exchange Agreement Between OTDA, OCFS, DOH and DOL—Unemployment Insurance Benefit Information*

A Memorandum of Understanding (MOU) was signed by the New York State Office of Temporary and Disability Assistance (OTDA), the New York State Department of Health (DOH), the New York State Office of Children and Family Services (OCFS) and the New York State Department of Labor (DOL) (hereafter “the Agencies”) in August 2012. This MOU agreed to continue an automated information exchange of Unemployment Insurance (UI) claim information in order to verify eligibility for benefits, conduct fraud investigations, and for the purposes of maintaining program integrity and quality control in the following covered programs: Temporary Assistance to Needy Families (TANF), Safety Net Assistance (SNA), Medicaid, Home Energy Assistance Program (HEAP), Supplemental Nutrition Assistance Program (SNAP) (formally Food Stamps) and the Child Care Subsidy Program (CCSP).

This page left intentionally blank.

**NEW YORK STATE**
**Andrew Cuomo, Governor**

| **Office of Temporary and Disability Assistance** | **Department of Health** | **Office of Children and Family Services** |
|---|---|---|
| Kristin Proud<br>Commissioner | Howard A. Zucker, M.D., J.D.<br>Acting Commissioner | Sheila J. Poole<br>Acting Commissioner |

# Administrative Directive

**Section 1**

| | |
|---|---|
| **Transmittal:** | 14- ADM-05 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Center for Employment and Economic Supports (CEES)<br>Audit and Quality Improvement (A&QI)<br>Office of Legal Affairs (OLA) |
| **Date:** | August 29, 2014 |
| **Subject:** | Automated Information Exchange Agreement between OTDA, OCFS, DOH and DOL – Unemployment Insurance Benefit Information |
| **Suggested Distribution:** | Temporary Assistance (TA) Directors<br>Supplemental Needs Assistance Program (SNAP) Directors<br>Medicaid Directors<br>HEAP Coordinators<br>Fraud Directors<br>Director of Services<br>Staff Development Coordinators |
| **Contact Person(s):** | TA Policy Issues (CEES) 518-474-9344<br>Audit & Quality Improvement (A&QI) 518-473-6035<br>Office of Legal Affairs (OLA) 518-474-9502 |
| **Attachments:** | None |
| **Attachments Available On – Line:** | |

**Filing References**

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 10-LCM-17-T | | 18 NYCRR Parts 351, 352.12 and 357 | SSL §132, §136; §1137 of the Social Security Act; NYS Labor Law §537; 20 CFR §603.21; §42 USC §1320-b-7 | | TASB Chapter 19 |

## Section 2

## I. Summary

A Memorandum of Understanding (MOU) was signed by the New York State Office of Temporary and Disability Assistance (OTDA), the New York State Department of Health (DOH), the New York State Office of Children and Family Services (OCFS) and the New York State Department of Labor (DOL) (hereafter "the Agencies") in August 2012. This MOU agreed to continue an automated information exchange of Unemployment Insurance (UI) claim information in order to verify eligibility for benefits, conduct fraud investigations, and for the purposes of maintaining program integrity and quality control in the following covered programs: Temporary Assistance to Needy Families (TANF), Safety Net Assistance (SNA), Medicaid, Home Energy Assistance Program (HEAP), Supplemental Nutrition Assistance Program (SNAP) (formally Food Stamps) and the Child Care Subsidy Program (CCSP).

Under the MOU, the DOL agreed to continue to provide direct access to UI claim information maintained in DOL's benefit claimant inquiry system (BCIQ) and conduct real-time automated and batch file information exchange through the OTDA eligibility systems, including the Welfare Management System (WMS) and myWorkspace, for the purposes of verifying eligibility, conducting fraud investigations, and maintaining program integrity and quality control for the covered programs. All agencies agreed to comply with any and all applicable confidentiality, use and disclosure requirements in State and Federal statutes and regulations pertaining to the UI and covered data.

As required in the MOU, the Agencies also agreed to provide this Administrative Directive to the Social Services Districts (SSDs) as direction to their employees and contractors regarding the proper access and use of UI information, appropriate remedial action for unauthorized access and use, monitoring the safeguarding of disclosed confidential UI information and required staff training.

## II. Purpose

This Administrative Directive is to provide an overview on the Agencies and the SSDs' responsibilities in regard to the legally authorized usage of DOL's UI data. The Agencies are required to monitor and protect the confidentiality and security of the UI data accessed by their respective staff and to only allow access to UI data to verify eligibility for benefits for the covered programs and to prevent fraud.

## III. Background

OTDA is the State office responsible for the oversight and supervision of the SSDs in their administration of Temporary Assistance to Needy Family (TANF), Supplemental Nutrition Assistance Program (SNAP), the Home Energy Assistance Program (HEAP) and the Safety Net Assistance (SNA) Programs. DOH is the State office responsible for the administration and overall supervision of the Medicaid program. OCFS is the State office responsible for the administration and overall supervision of the Child Care Subsidy Program (CCSP). SSD officials are required by Social Services Law §132 to include in their investigation of each application for public assistance and care a written request to

the Commissioner of the Department of Labor for information as to the applicant's status in respect to unemployment insurance benefits, unless the social services official is in possession of positive proof that the applicant is receiving or eligible to receive unemployment insurance benefits and the amount thereof. OTDA, DOH and OCFS staff are also required by state and federal statutes, regulations, and policies to utilize all available income and resource data, such as the unemployment insurance (UI) information in their oversight and supervisory roles for purposes such as audit, fraud investigations, and case reviews. The Social Security Act requires State agencies administering federally assisted benefit programs to have in effect an Income and Eligibility Verification System (IEVS) under which information is requested and exchanged for the purpose of verifying eligibility for, and the amount of, benefits available under several federally assisted programs, including TANF, Medicaid, and SNAP programs. New York State law authorizes OTDA to provide UI claim information to the SSDs so that they are able to make timely and accurate determinations of eligibility for benefits under the covered programs.

DOL is the State agency charged with the responsibility for administering the State Unemployment Insurance program and the payment of UI benefits, including any UI benefits payable under State law, Federal unemployment compensation law, or allowances administered by DOL under an agreement with the U.S. Department of Labor. New York State Labor Law authorizes DOL to provide UI claim information maintained by DOL to certain State agencies which are entitled to receive such information for performing certain functions under Federal law and its implementing regulations, subject to a number of restrictions to require the security of such information.

DOL has agreed to provide the Agencies and the SSDs an automated information exchange for the purposes of obtaining unemployment insurance claim information required by IEVS in order to verify eligibility for benefits and prevent fraud in the covered programs. DOL has agreed to provide direct access to unemployment insurance claim information maintained in DOL's benefit claimant inquiry system (BCIQ) to employees and contractors of State and local agencies, working in the SSD, for the purpose of verifying eligibility and preventing fraud under the covered programs. The real-time automated information exchange available through myWorkspace and the batch-file information contained in the WMS Resource File Integration (RFI) system is for the purposes of obtaining pending, active, suspended, terminated, expired and denied UI claim information in order to verify eligibility, facilitate fraud investigations, and for the purposes of maintaining program integrity and quality control for the covered programs.

## IV. Program Implications

The Agencies and the SSDs are required to comply with the confidentiality requirements in federal and state law, regulations and policy to safeguard UI information against unauthorized access or re-disclosure. The Agencies and the SSDs shall utilize and have access to UI data only for the purposes of verification of eligibility for the covered programs and the prevention of fraud. The Agencies shall only utilize and have access to UI information for the eligibility or fraud related activities relative to individuals who are applicants and/or recipients or household members for the covered programs (TANF, SNA, HEAP, Medicaid, SNAP and CCSP). However, it should be noted that certain UI information may be utilized in a fair hearing context to support a program eligibility

decision made by the SSD or the UI information could be scanned into the Imaging Electronic Document Retrieval (IEDR) for retention in the assistance case record. In addition to administrative hearings, re-disclosure is also permitted in the following instances: (1) when there is a notarized release by the applicant/recipient that specifically references UI information, (2) when presented by the State Attorney General's office in court, or (3) when to federal, state or local law enforcement agency in accordance with a proper judicial order or grand jury subpoena.

## V. Required Action

The Agencies are required to monitor their respective employees and contractors' access and usage of UI information. The SSDs are required to establish and document processes and procedures to monitor their employees and contractors access and use of UI information. The processes and procedures established by the SSDs to monitor the safeguarding of disclosed confidential UI information are the following:

**i)** only authorized personnel are given access to UI information stored in computer systems for the purpose of performing their assigned duties, and that access is terminated immediately upon changes in job functions or leaving the position that required such access;

**ii)** employees and contractors are using the disclosed information only for purposes authorized by law and consistent with the purpose outlined in this ADM;

**iii)** employees and contractors access and process the disclosed information in a place physically secure from access by unauthorized persons, and adequate controls are established to prevent unauthorized persons from viewing, accessing or examining UI information in either paper or electronic format;

**iv)** documents and other material containing UI information are secured in locked drawers or cabinets when not in use;

**v)** employees and contractors are properly disposing of disclosed information after the purpose for which the information is disclosed is served;

**vi)** incidents involving unauthorized access or use of UI information are reported immediately to the SSD's management and respective state agency's Information Security Officer and then the agency shall notify DOL of any such breach of the security of their system immediately following discovery of such breach;

**vii)** employees and contractors will make best efforts to notify DOL Counsel's Office of any request for records or information that includes UI Information, including FOIL requests and subpoenas.

Additionally, any employee or contractor of the Agencies or the SSD who has access to UI information through the DOL UI direct access system, the Welfare Management System (WMS) Resource File Integration (RFI) system, or myWorkspace is required to complete the DOL UI Confidentiality Training Modules I and II. The SSD must document that all employees and contract staff who have been granted access to UI have completed the online UI training and be prepared to produce this documentation upon the periodic monitoring review by the respective State Agency.

Current State employees or contractors should access the Confidentiality Training Modules through the Governor's Office of Employee Relations (GOER) Statewide Learning Management System (SLMS). All SSD employees or their contractors who use UI information are required to self-register and gain access to the GOER SLMS system through the Internet at https://nyslearn.ny.gov/ . All SSD employees or contractors should register as Non-State Employees to obtain an SLMS account and then search for UI Confidentiality Training Modules. Technical assistance with the training can be found by calling the GOER SLMS Helpdesk at 518-473-8087.

## VI. Systems Implications

None

## VII. Additional Information

OTDA A&QI is responsible for monitoring the SSDs' safeguarding of UI information as it pertains to OTDA program areas. OCFS' Bureau of Audit and Quality Control (A&QC) will be responsible for monitoring the SSD's use of UI information with regard to the Child Care Subsidy Program. DOH will be responsible for monitoring its staff and the SSD's use of UI information as it pertains to the DOH program areas. This monitoring will consist of periodic on-site reviews of select districts to ascertain that adequate processes and procedures have been established and documented to comply with the access, usage and storage requirements outlined in this ADM. Additionally, the MOU requires that each district complete an annual Self-Assessment survey designed to assess and report compliance with these requirements. OTDA will conduct and administer the survey for its respective program areas and on behalf of OCFS for the Child Care Subsidy Program. DOH will conduct and administer the survey for their respective program area. OTDA, DOH and OCFS will provide separate guidance on monitoring in their respective program areas.

**VIII. Effective Date:** Immediately

**Issued By:**

**Name:** Phyllis D. Morris
**Title:** Deputy Commissioner, Center for Employment and Economic Supports
**Division/Office**: NYS Office of Temporary and Disability Assistance

**Name:** Janice M. Molnar, Ph.D.

**Title:** Deputy Commissioner, Division of Child Care Services
**Division/Office**: NYS Office of Children and Family Services

**Name:** Howard A. Zucker, M.D., J.D.
**Title:** Acting Commissioner
**Division/Office**: NYS Department of Health

# 10-LCM-17-T
# *Use and Protection of Confidential Information*

The purpose of this Local Commissioners Memorandum (LCM) is to remind local departments of social services (local districts) of the requirement to assure appropriate protection, access to, and disclosure of confidential information maintained in State and County systems/databases.

This page left intentionally blank.

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

Andrew M. Cuomo
Governor

Kristin M. Proud
Commissioner

# Local Commissioners Memo

## Section 1

| | |
|---|---|
| **Transmittal:** | 10-LCM-17-T |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | OTDA Office of Legal Affairs |
| **Date:** | March 14, 2014 |
| **Subject:** | Use and Protection of Confidential Information |
| **Contact Person(s):** | Krista Rock, OTDA General Counsel<br>(518) 474-9502 or via email at otdalegalsi@otda.ny.gov |
| **Attachments:** | None |
| **Attachment Available On – Line:** | N/A |

## Section 2

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to remind local departments of social services (local districts) of the requirement to assure appropriate protection, access to, and disclosure of confidential information maintained in State and County systems/databases.

**NOTE**: This LCM revises and supersedes 09-LCM-01 Protection of Confidential Information, originally issued February 3, 2009 and 10-LCM-17 Use and Protection of Confidential Information, originally issued November 5, 2010.

### II. Background

A number of incidents have come to our attention recently regarding inappropriate access to, and disclosure of confidential information stored in State and local district systems/databases.

The confidential information maintained in and/or obtained from OTDA- owned systems/databases, which are maintained by the Office of Information Technology Services (OITS), such as, but not limited to the Welfare Management System (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, Commissioners Dashboard, and other such systems, is protected by a myriad of Federal and State statutes and regulations. Access to and use of such information by State and local district agencies is ***strictly limited to authorized employees and legally designated agents, for authorized purposes only*.**

Authorized entities must maintain the confidentiality and security of personal, private, and sensitive information in accordance with Federal and State laws and regulations. Use and disclosure of such information is strictly limited for authorized purposes, such as uses directly related to the administration and delivery of program services.

## III. Program Implications

Federal and State program-specific confidentiality and information security rules prohibit unauthorized access and inappropriate dissemination of confidential information. They also limit the access to and/or dissemination of such information for authorized, legitimate business purposes. For example:

1. Authorized users may not access their own active, closed or archived case records, or those involving a relative, acquaintance, neighbor, friend, partner, co-worker, or other individuals to whom they have no official assignment.

2. Authorized users may not disclose information received in their official capacity, except in the performance of official job duties and for authorized purposes.

3. In certain circumstances, individuals may authorize a third party, such as an attorney or child eighteen years or older, to access their confidential information. In some cases, written authorization is required (i.e., child support information).

Unauthorized access to, or release of such data, may result in civil liability and/or criminal prosecution. Individuals who access such information without authorization, or disclose it beyond authorized official purposes, may also be subjected to employment disciplinary actions and/or termination.

Local district management is responsible for ensuring that all individuals with access to personal, private, and sensitive information understand the laws and policies related to its use. Local district management must also ensure that employees accessing such information receive training on the proper use, handling and safeguarding of such data. Training requirements can be met through the completion of the SANS Security Awareness and Compliance Training available through the New York State

Governor's Office of Employee Relations (GOER) (http://www.goer.ny.gov/Training_Development/index.cfm) or through a locally provided equivalent, provided that records related to training completion are retained for review and auditing purposes.

Additional training regarding access to unique specific data, such as information provided by the Internal Revenue Service (IRS) and Social Security Administration (SSA), may also be required, along with the requirement to sign Acknowledgement of Confidentiality Agreements.

Local district management must ensure proper account and access management practices are strictly followed by local administrators and staff. Access must be limited to only those individuals whose job duties require it. Local district management must promptly disable and/or retract employee access when such access is no longer warranted – i.e. the individual leaves the agency or their job functions change.

Local district management must also ensure the confidentiality and security of such information by employees and third parties, including but not limited to contractors, consultants, temporary employees, researchers and other workers affiliated with third parties who are performing administrative or technical services on behalf of the local district.

Prior to granting a third party individual access to any State information system or confidential information, local district management must ensure that a duly authorized representative of the third party individual's organization with whom the local district contracts for services and the specific individual(s) who will be granted access, sign a Non-Disclosure Agreement that defines access terms and conditions.

Disclosures made in the course of service delivery through a contractual agreement with an agency are governed by the terms of the separate contractual agreements. All such contracts must include clear language requiring the contractor to properly safeguard and maintain the confidentiality, privacy and security of all such information in accordance with all applicable Federal and State laws and regulations, and any other contract terms required by OTDA. In addition, contracts that involve access to federal tax information must be pre-approved by the OTDA Center for Child Well-Being, and must include specific language as required by the Internal Revenue Service (IRS Publication 1075).

## IV. Fair Hearing Implications

Confidentiality and informational security rules prohibit unauthorized access and inappropriate dissemination of confidential information in the fair hearing process. For example:

1. Clients and their authorized representatives have the right to review their case records before the fair hearing (18 NYCRR 358-3.7). A careful and thorough review of the case record must be performed before the record is made available for review by the client or authorized representative, to ensure confidential information relating to other clients/cases is not included in the client's case record.

2. A representative of the social services agency must appear at the fair hearing with the client's case record, and provide a complete copy of the documentary evidence to the hearing officer, and to the client or authorized representative (18 NYCRR 358-4.3). A careful and thorough review of the case record must be performed before the record is turned over to the client or authorized representative, to ensure confidential information relating to other clients/cases is not included in the client's case record.

## V. Information Security and Incident Reporting

OTDA has prioritized the safeguarding of confidential, personal, private, and sensitive information in order to reduce the risk of informational security breaches and to ensure ongoing compliance with State and Federal laws, regulations, and policies. Local district management and staff share this critical responsibility, and must fully comply with and abide by Federal and State confidentiality and information security rules.

Local district management and staff must at all times be aware of their ongoing duty to ensure that access to confidential, personal, private, and/or sensitive data is strictly limited to authorized individuals. Local district management and staff must be cognizant that the data accessed may only be used for legitimate program purposes. Failure to do so may result in termination of critical data exchanges, such as the computer matches between OTDA and SSA and IRS, the triggering of informational security incident reporting and notification of affected individuals, and/or penalties including, but not limited to, the loss of access, loss of employment, and/or civil or criminal charges.

Incidents involving the unauthorized access or disclosure of the confidential information in OTDA-owned and OITS maintained systems/databases must be reported ***immediately, but in no event more than one (1) business day*** following the incident's initial discovery, to the OTDA Counsel's Office and OITS Human Services Cluster Information Security Officer, Christine Tolcser at Christine.Tolcser@its.ny.gov or (518) 457-6970.

When reporting an incident, please be prepared to provide a central point of contact, telephone number, and details as to the nature, location, date, time and individuals involved in the security breach. Additional information may be collected to assess the incident and to determine the appropriate response, reporting and corrective actions.

Further information regarding information security incident reporting policies and procedures is available on the OTDA intranet at http://otda.state.nyenet/dla/iso/incident-reporting.asp and http://www.its.ny.gov/eiso.

## VI. Legal and Regulatory References

This policy addresses and incorporates compliance with a variety of Federal and State statutory, regulatory and policy requirements related to confidentiality, privacy and information security, including but not limited to the following:

### Child Support

General rules: 42 U.S.C. § 654(26); 45 C.F.R. § 303.21; SSL § 111-v; 18 NYCRR 346.1(e), 347.19

Child Support Management System (CSMS) data: 42 U.S.C. § 654a(c), (d); 45 C.F.R. § 307.13; SSL § 111-v

Domestic Violence Indicators: 42 U.S.C. § 653(b)(2); 42 U.S.C. § 654(26)(e); SSL § 111-v(2)(a)

Federal and State Case Registry: 42 U.S.C. §§ 653(h), (m); 42 U.S.C. § 654a(e); SSL § 111-b(4-a)

Federal Parent Locator Service/State Parent Locator Service: 42 U.S.C. §§ 653(a)–(c), (l), (m); 42 U.S.C. § 654(8); 42 U.S.C. § 663; SSL § 111-b(4)

Financial Institution records: 42 U.S.C. §§ 666(a)(17); 42 U.S.C. § 669a(b); SSL § 111- o

Government Agency and Private records: 42 U.S.C. § 666(c)(1)(D); SSL § 111-s

IRS and State Tax Information: 26 U.S.C. § 6103(p)(4)(C); 26 U.S.C. §§ 6103(l)(6), (8); 26 U.S.C. § 6103(l)(10)(B); NY Tax Law §§ 697(e)(3), 1825; SSL § 111-b(13)(b); *See also* IRS Publication 1075: Tax Information Security Guidelines for Federal, State, and Local Agencies (2014), *available at* www.irs.gov/pub/irs-pdf/p1075.pdf

New Hires Data: 42 U.S.C. §§ 653(i), (j)(2), (l), (m); 42 U.S.C. 653a(h); SSL § 111-m

**Public Assistance**

Fair Hearing records: 45 C.F.R. § 205.10(a)(19); 18 NYCRR 357; 18 NYCRR 358-3.7; 18 NYCRR 358-4.3; 18 NYCRR 358-5.11(b); 18 NYCRR 387.2(j)

General rules: SSL § 136; 18 NYCRR §§ 357.1 – 357.6

IRS and State Tax Information: 26 U.S.C. § 6103(l)(7); 26 U.S.C. § 6103(L)(8); SSL §§ 23; 136-a(2); NY Tax Law §§ 697(e)(3), 1825; *see also* IRS Publication 1075: Tax Information Security Guidelines for Federal, State, and Local Agencies (2014), *available at* www.irs.gov/pub/irs-pdf/p1075.pdf

Welfare Management System (WMS) data: SSL § 21

**Medical Assistance:**

General rules: 42 U.S.C. § 1396a(a)(7), *amended by* Pub. L. No. 113-67, 127 Stat. 1165 (2013); 42 C.F.R. § 431.300 et seq; SSL §§ 136, 367-b(4), 369(4); 18 NYCRR 357.1 – 357.6; 18 NYCRR 360-8; Public Health Law § 2782 (AIDS information)

HIPAA regulations: 45 C.F.R. pt. 160; 45 C.F.R. pt. 164

**Supplemental Nutrition Assistance Program (SNAP)**

General Rules: 7 U.S.C. § 2020(e)(8); 7 C.F.R. § 272.1(c); 7 C.F.R. § 278.1(q); 18 NYCRR 387.2(j); 18 NYCRR 357

**Other Statutes and Policies**

Criminal Offenses involving Computers (including governmental and personal records): NY Penal Law art. 156

Freedom of Information Law: NYS Public Officers Law, Article 6, §§ 84 – 90

Internet Security and Privacy Act: State Technology Law 201-208; N.Y.S. Executive Order No. 117, 9 NYCRR 5.117 (Jan. 28, 2002)

NYS Office of Cyber Security and Critical Infrastructure Coordination Incident Reporting Policy P03-001

NYS Office of Cyber Security and Critical Infrastructure Coordination Information Security Policy P03-002

Personal Privacy Protection Law: NYS Public Officers Law, Article 6-A, §§ 91 – 99

State Archives and Records Administration: Arts and Cultural Affairs Law 57.05 and 57.25

**Issued By**

**Name:** Krista Rock
**Title:** General Counsel
**Division/Office:** Office of Temporary and Disability Assistance, Office of Legal Affairs

# 12-OCFS-INF-01

# *Sharing of Confidential Client-identifiable Information Between Child Protective Services (CPS) and Protective Services for Adults (PSA)*

The purpose of this release is to provide guidance to local departments of social services (LDSS) as to permissible means for the sharing of client-identifiable information between Child Protective Services (CPS) and Protective Services for Adults (PSA) units of an LDSS.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 12-OCFS-INF-01 |
| **To:** | Commissioners of Social Services |
| **Issuing Division/Office:** | Division of Child Welfare and Community Services |
| **Date:** | January 17, 2012 |
| **Subject:** | **Sharing of Confidential Client-identifiable Information Between Child Protective Services (CPS) and Protective Services for Adults (PSA)** |
| **Suggested Distribution:** | Directors of Social Services<br>CPS Supervisors and Staff<br>PSA Supervisors and Staff<br>Agency Attorneys |
| **Contact Person(s):** | Please direct questions about this policy to:<br>Buffalo Regional Office Dana Whitcomb (716) 847-3145<br>Dana.Whitcomb@ocfs.state.ny.us<br>Rochester Regional Office Karen Buck (585) 238-8201<br>Karen.Buck@ocfs.state.ny.us<br>Syracuse Regional Office Daniel E. Comins (315) 423-1200<br>Daniel.Comins@ocfs.state.ny.us<br>Albany Regional Office Kerri Barber (518) 486-7078<br>Kerri.Barber@ocfs.state.ny.us<br>Spring Valley Regional Office Raymond Toomer (845) 708-2498<br>Raymond.Toomer@ocfs.state.ny.us<br>NYC Regional Office Pat Beresford (212) 383-1788<br>Patricia.Beresford@ocfs.state.ny.us<br>Native American Services Kim Thomas (716) 847-3123<br>Kim.Thomas@ocfs.state.ny.us<br><br>For questions relating to PSA:<br>Director of Adult Services Alan Lawitz (518) 474-9431<br>Alan.Lawitz@ocfs.state.ny.us |
| **Attachments:** | Attachment A: Chapter 440 of the Laws of 2011<br>Attachment B: Model letter, Authorization for Information |
| **Attachments Available Online:** | Attachment A available at: http://public.leginfo.state.ny.us/menugetf.cgi<br>Attachment B is posted, in Word format, with this policy at:<br>http://www.ocfs.state.ny.us/main/policies/external |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| | | 18 NYCRR 457, 18 NYCRR 457.16 | SSL § 422(4)(A)<br>SSL § 473(1)<br>SSL § 473-e(2) | | |

## I. Purpose

The purpose of this release is to provide guidance to local departments of social services (LDSS) as to permissible means for the sharing of client-identifiable information between Child Protective Services (CPS) and Protective Services for Adults (PSA) units of an LDSS. The release includes information about a new provision of law, enacted as Chapter 440 of the Laws of 2011, as well as information about other applicable longstanding provisions of law. Some LDSSs have sought clarification of permissible means under current law of sharing client identifiable CPS information with PSA, and the enactment of this new chapter law makes it necessary to provide such guidance at this time.

## II. Background

**CPS:** CPS is a state-mandated service provided without regard to income by the CPS unit in an LDSS. CPS investigates reports of suspected child abuse and maltreatment in order to protect children from further abuse or maltreatment. After an investigation, all CPS reports are either "indicated," if there is some credible evidence that one or more persons abused or maltreated one or more children, or "unfounded," where no such evidence is found. Reports of child abuse or maltreatment as well as any other information obtained, reports written or photographs taken concerning such reports of child abuse or maltreatment that are in the possession of an LDSS or OCFS are confidential in accordance with Social Services Law (SSL) Section 422. Such information may only be disclosed where authorized by statute. Unauthorized disclosure of confidential CPS information may subject the individual responsible for such disclosure to criminal and/or civil penalties. CPS information contained in reports pending determination or in indicated reports of child abuse or maltreatment may be disclosed only where and to the extent authorized by SSL Section 422(4)(A)(a)-(aa). Among the exceptions in which disclosures are permitted are disclosures made pursuant to court order or upon the authorization of the subject of the report or other person named in the report.

Another exception to the prohibition on disclosing CPS information in reports pending determination or in indicated reports of child abuse or maltreatment, which may be of particular interest to PSA units, is set forth in SSL Section 422(4)(A)(o). That section permits a CPS or an LDSS to provide CPS information to a provider or coordinator of services to which the CPS or LDSS has referred a child named in a CPS report or the child's family, or to whom the child or the child's family have referred themselves at the request of CPS or the LDSS, where the child has been reported to the Statewide Central Register of Child Abuse and Maltreatment. The statute authorizes CPS to provide reports or other information necessary to enable the provider or coordinator of services to establish and implement a services plan for the child or family, to monitor the provision or coordination of services, or to directly provide services to the child or family. Such disclosure may not include information that would identify the source of the report, absent the written consent of the source. CPS information received by the provider or coordinator of services is also subject to limitations on redisclosure, as set forth in SSL Section 422(4)(A).

There is no authority in SSL Section 422(4)(A)(o) for the disclosure to providers or coordinators of services of CPS information from an unfounded report of child abuse or maltreatment.

A PSA unit of an LDSS is considered to be a permissible provider or coordinator of services to which CPS may refer a family involved in a CPS case that is pending determination or that is an indicated report.

A new exception permitting disclosure of certain CPS reports to PSA was enacted pursuant to Chapter 440 of the Laws of 2011. Known for the purposes of this release as the "access while a child" exception, this new provision, signed into law on August 17, 2011, and effective immediately upon enactment, added SSL§422(4)(aa) to provide specific authority for PSA to receive confidential CPS records on pending or indicated reports of child abuse or maltreatment when a social services official who is investigating whether an adult is in need of PSA has reasonable cause to believe such adult may be in need of protective services for adults due to the conduct of an individual or individuals who had access to such adult when such adult was a child, and the child abuse or maltreatment reports and information are needed to further the present PSA investigation. A copy of this new law is attached as Appendix A.

**PSA:** PSA is a state-mandated service which, pursuant to SSL Section 473(1), is provided without regard to income by a PSA unit in an LDSS to assist adults age 18 or older who:

(a) because of mental or physical impairments,
(b) are unable to manage their own resources, carry out the activities of daily living, or protect themselves from physical abuse, sexual abuse, emotional abuse, active, passive or self-neglect, financial exploitation or other hazardous situations without assistance from others, and
(c) have no one available who is willing and able to assist them responsibly.

PSA staff receive and investigate referrals, interview clients and collaterals to determine eligibility for services, assess client risks, develop services plans to address identified risks and, as appropriate, provide or arrange for the provision of protective services in accordance with the services plan. PSA reports, as well as the names of referral sources, photographs and any other information obtained concerning such reports, that are in the possession of the LDSS or OCFS are confidential, pursuant to SSL Section 473-e(2), and may only be disclosed where authorized by that statute. PSA may disclose confidential information to a provider of services of a current or former PSA client when the LDSS believes that such information is necessary to determine the need for or to provide or to arrange for the provision of such services [SSL Section 473-e(2)(b)].

## III. Program Implications

PERMISSIBLE MEANS OF SHARING CLIENT IDENTIFIABLE CPS INFORMATION BY CPS TO PSA

### A. Referral by CPS to PSA

In accordance with SSL Section 422(4)(A)(o), an LDSS or CPS may disclose client-identifiable CPS information contained in a report pending determination or an indicated report to "a provider or coordinator of services" to which a CPS or an LDSS has referred the child or the child's family, or to which the child or child's family has referred themselves at the request of the CPS or LDSS. This authorizes the sharing of CPS information either within the same LDSS or with a PSA unit in a different LDSS to which a referral has been made. PSA is considered to be "a provider or coordinator of services" under this provision.

These provisions apply to an open or indicated CPS report when there is either: (i) a referral made by CPS or the LDSS to PSA of an adult in the child's family who may be in need of PSA, or (ii) a referral by the child's family to PSA, made at the request of CPS or an LDSS, where the CPS information is necessary to enable the LDSS PSA to establish and implement a plan of service to a vulnerable adult, or to monitor the provision or coordination of PSA services, or to directly provide PSA services to the child's family. The term "family" for this purpose includes the children, the parents, and other adults residing in the same household as the children. An example of a situation in which CPS may refer a family to PSA and share CPS information on pending or indicated CPS reports is one where the CPS investigation identifies that there is an adult in the child's household who may be in need of PSA, as set forth in SSL Section 473. Such referral may be made during or at the conclusion of a CPS investigation. Referral is also appropriate if an individual who is part of a closed CPS case communicates with CPS about an issue relating to the abuse, neglect or financial exploitation of a vulnerable adult.

NOTE:

- CPS information provided to PSA may **not** include the identity of the source of the report, absent the written consent of the source.
- CPS information may be provided by CPS to the PSA unit as a provider or coordinator of services pursuant to SSL Section 422(4)(A)(o) only where there is <u>a CPS report pending determination</u> or an <u>indicated</u> CPS case, but may <u>not</u> be shared where a CPS case is "unfounded."

### B. Release/Consent to Disclose

In accordance with SSL Section 422(4)(A), the subject of a report (i.e., the person who is named in a report as being responsible for the abuse or maltreatment of the child) or another person named in the report (the child named in the report or the child's parent, guardian, custodian or other person legally responsible for the child who has not been named in the report as being responsible for the abuse or maltreatment) may consent to the disclosure of client-identifiable CPS information in <u>open</u> (pending determination) or <u>indicated</u> reports.

Such consent may be documented through the execution of a written release that expressly refers to the disclosure of CPS information.

In accordance with SSL Section 422(5)(a)(iv), the subject of the report may also authorize the disclosure of an unfounded CPS report to LDSS PSA through a release. Other persons named in the report may not authorize the disclosure of an unfounded CPS report.

Please refer to Appendix B for a model of a consent form authorizing disclosure of CPS information.

**C. Multidisciplinary Investigative Team**

In accordance with SSL Section 422(4)(A)(x), LDSS CPS may disclose client-identifiable CPS information on pending or indicated CPS reports to members of a local Multidisciplinary Investigative Team **(**MDT**)** established by the LDSS. In accordance with SSL Section 423(6), LDSS PSA staff may be members of an MDT. Participation in an MDT would enable LDSS PSA to become aware of CPS reports**,** including specifically reports of physical abuse, sexual abuse, child fatalities, and serious and/or ongoing maltreatment. PSA would be able to participate jointly with CPS and other appropriate MDT member agencies in the investigation of cases involving vulnerable adults who may be eligible for PSA.

In accordance with SSL Section 422(5)(a)(iii), members of an MDT have access to legally sealed unfounded CPS reports when there is a subsequent report involving the same subject, child, or sibling of a child named in an unfounded report. In such situations, LDSS PSA staff who are members of an MDT might sometimes obtain access to unfounded report information in the context of the investigation of a subsequent CPS report. In accordance with SSL Section 423(6), LDSS PSA staff who are members of an MDT may share client-identifiable PSA information concerning a child or a child's family with other members of the MDT to facilitate the investigation of suspected child abuse or maltreatment.

**D. PSA Requests for Access to CPS Information**

The situation may arise in which a PSA unit has reason to believe that there may have been prior or ongoing CPS involvement with a family that is also being served by the PSA unit and that the CPS information may be of assistance to the PSA unit in meeting its statutory and regulatory duties and obligations.

In order for the PSA unit to access CPS information, one of the exceptions to the ban on sharing information included in SSL Sections 422(4)(A)(a)-(aa) would have to apply. The applicable exceptions are those pertaining to a court order, MDT, CPS release, provider or coordinator of services, or the new "access while a child" exception noted on page 3.

A PSA unit would have a right to access CPS information on pending and indicated CPS cases if the PSA unit is granted a court order allowing such access. This exception is most likely to occur when the PSA unit is seeking CPS information in the possession of another LDSS. In addition, the PSA unit would have a right to access CPS information from

pending and indicated reports if the subject of the CPS report or any other person named in such report (including the PSA client) executes a release that specifically includes CPS information, subject to the same limitations noted in section B of this Informational Letter. Where access to CPS information is authorized by either a court order or a CPS-specific release, the PSA unit is not required to provide further justification to the CPS unit to gain access to CPS information.

If the PSA unit is not able to access CPS information by either a court order, a CPS-specific release, or through an MDT, the PSA unit may request that the CPS unit share CPS information using the provider or coordinator of services exception in SSL Section 422(4)(A)(o). For this exception to apply, the family must otherwise satisfy the requirements in Section 422(4)(A)(o), which are that:

- the family was referred to the PSA unit by CPS or an LDSS,
  or
- the family referred themselves at the request of CPS or an LDSS
  and, for either type of referral,
- the PSA unit needs the CPS information to establish and implement a plan of PSA for the family, or to monitor the provision of PSA, or to directly provide PSA, including a PSA investigation.

Should the PSA unit make such a representation to the CPS unit within an LDSS, the CPS unit may share with the PSA information on pending and indicated CPS reports regarding such family, subject to the limitations referenced in section A of this Informational Letter. The PSA unit's request for CPS information should be made in writing to the CPS unit and should set forth the basis for the request. Where CPS information is provided to the PSA unit, the LDSS should document the basis for the transfer of such information.

Finally, the PSA unit may also request confidential CPS records under the "access while a child exception," where the PSA unit is investigating whether an adult is in need of PSA and has reasonable cause to believe such adult may be in need of protective services due to the conduct of an individual or individuals who had access to such adult when such adult was a child, and such records and information are needed to further the present investigation.

**RECOMMENDED ACTION:**

LDSS staff (Directors of Services, CPS and PSA, together with LDSS attorneys) should review and consider the above mentioned permissible means available under current law to enable CPS, a local or regional MDT, and PSA to share confidential information under certain circumstances; determine how these provisions may apply to future cases; and determine what changes in procedures may be necessary or desirable as a result. In particular, consideration should be given to whether an LDSS may wish to establish an MDT - or expand an existing MDT - to include PSA as well as CPS staff, in order to better address particular PSA cases.

LDSS CPS staff and MDT member agencies should become familiar with the eligibility criteria for PSA, with possible indicators of abuse, neglect and exploitation of vulnerable

adults who may be eligible for PSA, and with the range of services available under PSA. Such information is available under the "Protective Services for Adults" sections of the OCFS Internet and intranet websites; in Publication 1307, "Protecting Adults: A Community Concern"; in Publication 1326, "Protecting Adults From Abuse and Neglect"; and in Publication 4664, "Financial Exploitation of Elderly and Impaired Adults." More detailed information concerning PSA services, procedures and policies can be found in numerous Administrative Directives, Information Letters and Local Commissioner Memoranda issued in previous years, and may be obtained by contacting the OCFS Bureau of Adult Services.

*/s/ Laura M. Velez*

**Issued By:**
Name: Laura M. Velez
Title: Deputy Commissioner
Division/Office: Division of Child Welfare and Community Services

# ATTACHMENT A

A07633 Text:

STATE OF NEW YORK

7633

2011-2012 Regular Sessions

IN ASSEMBLY

May 11, 2011

Introduced by M. of A. PAULIN, PEOPLES-STOKES, SCARBOROUGH -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to permitting social services officials investigating whether an adult is in need of protective services to have access to certain confidential reports

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subparagraphs (y) and (z) of paragraph (A) of subdivision 4 of section 422 of the social services law, subparagraph (y) as amended and subparagraph (z) as added by section 1 of part A of chapter 327 of the laws of 2007, are amended and a new subparagraph (aa) is added to read as follows:

(y) members of a citizen review panel as established pursuant to section three hundred seventy-one-b of this article; provided, however, members of a citizen review panel shall not disclose to any person or government official any identifying information which the panel has been provided and shall not make public other information unless otherwise authorized by statute; [and]

(z) an entity with appropriate legal authority in another state to license, certify or otherwise approve prospective foster and adoptive parents where disclosure of information regarding the prospective foster or adoptive parents and other persons over the age of eighteen residing in the home of such prospective parents is required by paragraph twenty of subdivision (a) of section six hundred seventy-one of title forty-two of the United States code[.]; AND

(AA) A SOCIAL SERVICES OFFICIAL WHO IS INVESTIGATING WHETHER AN ADULT IS IN NEED OF PROTECTIVE SERVICES IN ACCORDANCE WITH THE PROVISIONS OF SECTION FOUR HUNDRED SEVENTY-THREE OF THIS CHAPTER, WHEN SUCH OFFICIAL HAS REASONABLE CAUSE TO BELIEVE SUCH ADULT MAY BE IN NEED OF PROTECTIVE SERVICES DUE TO THE CONDUCT OF AN INDIVIDUAL OR INDIVIDUALS WHO HAD ACCESS TO SUCH ADULT WHEN SUCH ADULT WAS A CHILD AND THAT SUCH REPORTS AND INFORMATION ARE NEEDED TO FURTHER THE PRESENT INVESTIGATION.

S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11521-01-1

# ATTACHMENT B

## AUTHORIZATION FOR INFORMATION

I, _____, currently residing at _____

_____, hereby authorize the New York Statewide Central Register of Child Abuse and Maltreatment to furnish all information which may be contained within the New York Statewide Central Register of Child Abuse and Maltreatment to _____ affiliated with _____ (agency), on my behalf in accordance with the Child Protective Services Act of 1973.

The names and birth dates of the children belonging to the individual listed on the first line of this form as well as previous addresses of this individual are necessary to conduct a thorough and accurate search of the Statewide Central Register database. Please furnish this information below:

Names and birth dates of children:

_____ _____

_____

_____

Previous addresses starting with most recent:

_____

_____

_____

_____
Signature

On this _____ day of _____, 20__, before me personally came _____ _____ (individual) to me known and known to be the same person described in and who executed the within statement, and he/she duly acknowledged to me that he/she executed the same.

_____
Notary Public

# 12-ADM-01

# *Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs*

The purpose of this ADM is to convey to Social Services Districts their responsibilities required by SSL 392 and provide Social Services Districts with the information that is needed to meet this responsibility.

This page left intentionally blank.

**NEW YORK STATE**
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

**Andrew M. Cuomo**
***Governor***

**Administrative Directive**

**Section 1**

| | |
|---|---|
| **Transmittal:** | 12-ADM-01 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Office of Temporary and Disability Assistance/Center for Employment and Economic Supports |
| **Date:** | January 4, 2012 |
| **Subject:** | Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs |
| **Suggested Distribution:** | Temporary Assistance Directors<br>Staff Development Coordinators |
| **Contact Person(s):** | Temporary Assistance Bureau at 1-800-343-8859, Extension 4-9344 |
| **Attachments:** | Attachment A-Non-Parent Caregivers (Grandparents, Other Relatives, Friends) Caring for Children |
| **Attachment Available On – Line:** | ☒ |

**Filing References**

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 05 INF-24 | | | Chapter 58 of the Laws of 2010<br>SSL § 392 | | |

**Section 2**

**I. Summary**

Social services districts (SSDs) are required by Social Services Law (SSL) § 392 to make available to relative caregivers, caring for children outside of the foster care system, information on financial assistance and services programs and how to apply for them. In order to meet this

requirement the Office of Temporary and Disability Assistance (OTDA) requires that the information in attachment A be made available to all non-parent caregivers (NPCs).

## II. Purpose

The purpose of this Administrative Directive (ADM) is to convey to SSDs their responsibilities required by SSL § 392 and provide SSDs with the information that is needed to meet this responsibility.

## III. Background

Chapter 58 of the Laws of 2010 added a new section 392 to the SSL. This new section requires SSDs to make available through the SSDs' websites, or by any other means, information for relatives caring for children outside of the foster care system. This information must include information relating to financial assistance programs and how to apply for them as well as information on OTDA or SSD funded resources, including those that provide supportive services to NPCs.

## IV. Program Implications

OTDA recognizes that although this law is specific to relatives caring for children outside of the foster care system, there is a population of non-relatives that also care for children. Therefore, information found in attachment A must be available to all NPCs.

## V. Required Action

To ensure that all SSDs comply with SSL § 392, OTDA requires the information in attachment A to be available to all NPCs. The requirement to make this information available to NPCs must be met by one or more of the following methods:

- add the language in attachment A to the SSD's website; or
- post the language in attachment A in SSD waiting areas; or,
- provide attachment A as a handout.

Also, any additional services the SSDs provide to NPCs should be included as an addendum to the language in attachment A.

## VI. Systems Implications

There are no system implications

## VII. Effective Date

This ADM is effective immediately

**Issued By**
**Name:** Phyllis Morris
**Title:** Acting Deputy Commissioner
**Division/Office**: Center for Employment and Economic Supports

**ATTACHMENT A**

January 12, 2012

**Non-Parent Caregivers (Grandparents, Other Relatives, Friends) Caring for Children**

Non-parent caregivers, who are caring for children without a parent living in their home, may be eligible for Temporary Assistance. Temporary Assistance for children not living with a parent is often referred to as "non-parent caregiver" or "child-only" grants, and includes Medical Assistance (MA). If the non-parent caregiver wants assistance only for the children, the non-parent caregiver's income is not used to determine eligibility and there are no Temporary Assistance work requirements for the non-parent caregiver. Non-parent caregivers may apply for temporary assistance at their local social services office.

In addition to financial assistance, non-parent caregivers (also called kinship caregivers) often have a need for information and assistance related to food stamps, the Home Energy Assistance Program (HEAP), custody, guardianship, foster care, adoption, schooling, school enrollment, and other forms of assistance such as child care, social security, respite, case management and service programs.

For information about services and assistance programs please visit the following websites:

- www.nysnavigator.org - The NYS Kinship Navigator's website offers legal fact sheets, state and local kinship resources, and other information. In addition, the Navigator operates a toll free phone line at 1-877-454- 6463. Kinship Specialists are available from 10:00 am to 4:00 pm Monday through Friday. A message may be left during non-business hours and calls will be returned when business hours resume.
- http://otda.ny.gov/programs/ - The NYS Office of Temporary and Disability Assistance (OTDA).
- www.mybenefits.ny.gov - MyBenefits is an online tool to help you learn about eligibility for financial assistance and other benefit programs. A simple, 10-minute prescreening from any computer with Internet access at any time, determines whether you are likely to qualify for Food Stamps, HEAP, the Earned Income Tax Credit, child dependent care credits, school lunch and other programs.
- http://www.ocfs.state.ny.us/kinship/default.asp - The NYS Office of Children and Family Services (OCFS) provides contact information and links to the Kinship Caregiver Programs funded through OCFS, as well as a variety of resources for families and staff, including the Kinship Guardianship Assistance Program (KinGAP), a subsidy program available to kinship caregivers who are foster parents.

Your local Social Services District (SSD) and local area Office for the Aging (OFA) are also resources for information on kinship care.

# 91-ADM-34
# *Child Care: Reimbursement of Payments for Children with Special Needs*

The purpose of 91-ADM-34, *Child Care: Reimbursement of Payments for Children with Special Needs,* is to advise social services districts of policies and procedures related to the provision of child day care services for children with special needs. These policies and procedures apply to the provision of JOBS, Transitional, Employment-Related, Low-Income, and Title XX Child Care, including Preventive and Protective Child Care.

This page intentionally left blank.

**ADMINISTRATIVE DIRECTIVE**

**TRANSMITTAL:** 91 ADM-34

**DIVISION:** Family and Children Services

**TO:** **Commissioners of Social Services**

**DATE:** August 23, 1991

**SUBJECT:** Child Care: Reimbursement of Payments for Children with Special Needs

**SUGGESTED DISTRIBUTION:**
Services Supervisors
Day Care Staff
Income Maintenance Supervisors
Staff Development Coordinators

**CONTACT PERSON:**
Dee Woolley, Bureau of Child Care, 1-800-342-3715, ext. 4-9614 or (518) 474-9614

**ATTACHMENTS:**
Quarterly Report -- Child Day Care for Children with Special Needs (available on-line)

**FILING REFERENCES**

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 90 ADM-27 | | 415.6 | PL 100-485 | | |
| 90 ADM-31 | | | Title 9B | | |

**DSS-296EL (REV. 9/89)**
**Date August 23, 1991**

## I. Purpose:

The purpose of this ADM is to advise social services districts of policies and procedures related to the provision of child day care services for children with special needs. These policies and procedures apply to the provision of JOBS, Transitional, Employment-Related, Low Income and Title XX Child Care, including Preventive and Protective Child Care.

## II. Background:

Child day care is an important service for parents who are or were in receipt of public assistance or who are among the population of the working poor. The lack of available and affordable child care can restrict the parents' opportunities to pursue training and educational activities which increase their employability. The availability of reliable and affordable child care also impacts on the ability of many individuals to obtain and maintain steady employment and self-support.

The importance of the availability of quality child day care increases when a child has special needs. Children with special needs often require services beyond those offered by most child care providers. Locating appropriate placements which provide the specialized services needed by a child with special needs is often difficult. When such placements are identified their cost frequently exceeds the cost of other forms of child day care in the area.

The federal Family Support Act of 1988 recognized the need for making higher child care payments for children who have special needs and allowed states to establish separate statewide limits for the care of such children. However, higher payments for child care for children with special needs are not allowed to cover special educational, therapeutic or other services not directly related to the provision of appropriate child care.

To assist social services districts in accessing appropriate placements, child day care payments for children with special needs will be reimbursed based upon the actual cost of care up to the statewide maximum rate of $204 per week for weekly care, regardless of the child's age, the type of care or the local market rate. Part time care for such children will be based upon the actual cost of care up to a maximum rate of $136 per week. The existence of special needs must be documented on a case by case basis by the social services districts. The social services districts must also verify that the child care provider is providing child care related services or is accruing additional costs as the result of caring for a child with special needs.

## III. Program Implications:

### A. Definitions of Special Needs

To be eligible for reimbursement for the actual cost of care up to the statewide maximum rate for weekly or part time child care, social services districts must document that a child has special needs. Children who have one or more of the following conditions as derived from education regulations 8 NYCRR 200.1(cc)(1-11) and Head Start Performance Standards are considered to be children with special needs.

1. **Visual impairment** -- A visual handicap which, even with correction, adversely affects a child's ability to function normally. The term includes impairments that result in a child having partial sight or blindness. Diagnosis of the child's condition must be made by an ophthalmologist, optometrist, physician or pediatrician.

2. **Deafness** -- A hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and which adversely affects the child's ability to function normally. Diagnosis of the child's condition must be made by an audiologist, otolaryngologist, physician or pediatrician.

3. **Hard of hearing** -- A hearing impairment, whether permanent or fluctuating, which adversely affects the child's ability to function normally but which is not included under the definition of deaf. Diagnosis of the child's condition must be made by an audiologist, otolaryngologist, physician or pediatrician.

4. **Orthopedic impairment** -- A physical handicap resulting from a severe orthopedic impairment which adversely affects a child's ability to function normally. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some limb or digits, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputation, and fractures or burns which cause contractures). Diagnosis of the child's condition must be made by a physician, pediatrician, orthopedist, or neurologist.

5. **Emotional disturbance** -- An inability to learn which cannot be explained by intellectual, sensory or health factors and which causes a child to exhibit, to a marked degree, one or more of the following characteristics over a long period of time:

   a. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
   b. inappropriate types of behavior or feelings under normal circumstances;
   c. a general pervasive mood of unhappiness or depression; or

d. a tendency to develop physical symptoms or fears associated with personal or school problems.

Diagnosis of a child as emotionally disturbed must be made by a psychologist, psychiatrist or other clinically trained and State-qualified mental health professional.

6. **Mental retardation** -- General intellectual functioning that is determined to be 1.5 standard deviations or more below the mean of the general population on the basis of a comprehensive evaluation which includes an individual psychological evaluation and which results in a consistent demonstrable deficit in a child's ability to adapt to his or her learning environment. Diagnosis of the child's condition must be made by a psychologist, physician or pediatrician.

7. **Learning disability** -- A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, neurological impairment, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems which are primarily the result of visual, hearing or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage. A child who exhibits a discrepancy of 50 percent or more between expected achievement and actual achievement determined on an individual basis shall be deemed to have a learning disability. Diagnosis of the child's condition must be made by a psychologist, special education professional, psychiatric social worker or other mental health professional.

8. **Speech impairment** -- A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment which adversely affects the child's ability to function normally. A child should not be classified as having a communication disorder when speech and language differences may be attributed to cultural, ethnic, bilingual, or dialectical differences or being non-English speaking. Diagnosis of the child's condition must be made by a speech or language pathologist, audiologist, otolaryngologist, physician, or pediatrician.

9. **Health impairment** -- A physical handicap which limits a child's strength, vitality or alertness caused by chronic or acute health problems which adversely affect a child's ability to function normally. Examples of such health problems include, but are not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia,

diabetes, tourette syndrome or HIV or AIDS. Diagnosis of the child's condition must be made by a pediatrician, physician or other medical specialist.

10. **Autism** -- A behaviorally defined syndrome which occurs in children of all levels of intelligence. The essential features of autism are typically manifested prior to 30 months of age and include severe disturbances of developmental rates and/or sequences of responses to sensory stimuli, of speech, of language, of cognitive capacities, and of the ability to relate to people, events and objects. Diagnosis of the child's condition must be made by a psychologist, psychiatrist or other clinically trained and State-qualified mental health professional.

11. **Multiple handicaps** -- Two or more handicapping conditions identified in Section III. A (1-10) of this ADM that result in multi-sensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas, the combination of which cause problems which interfere with the child's ability to function normally. Diagnosis of the child's condition must be made by a pediatrician, physician or other medical specialist.

In the provision of child care services for children of the homeless, children of drug-involved individuals and children requiring protective or preventive services, the social services district should carefully evaluate whether such children have special needs as defined by Section III. A (1-11) of this ADM.

Social services districts may submit written requests for Department approval of any category of special need not otherwise defined in this ADM.

**B. Child Care Related Services**

Social services districts must verify that child care providers who request child care payments in excess of the applicable local market rates are providing child care services related to the care of children with special needs or are incurring additional costs as the result of caring for such children. **Reimbursement for child care payments in excess of the local market rates will not be allowed to cover special education or other therapeutic services not directly related to the provision of appropriate child care.** Possible child care related services or additional costs include:

1. purchase or rental of equipment needed to provide appropriate care to a child with special needs;

2. maintenance of apparatus which assists in breathing, feeding or toileting;

3. supervision of physical activities such as infant stimulation and follow-up activities recommended by a therapist, physician or other specialist;

4. minor modifications to the environment to make it appropriate for a specific child, such as installation of a ramp or handrails in the bathroom;

5. materials and supplies for use with a child on a routine basis as recommended by a therapist, physician or other specialist;

6. increased utility costs due to use of therapeutic machines, such as respirators;

7. transportation of children to and from prescribed therapy sessions;

8. additional staffing when needed to allow a caregiver to work on an individualized basis with a child for scheduled time periods; or

9. increased time and attention needed to provide appropriate care is such that a child care provider is unable to accept additional children.

One-time child care related costs may be paid as administrative expenses under the Low Income Day Care or Title XX Child Care programs rather than as part of an increased rate if the social services district wishes. However, to cover one-time costs using JOBS, Employment-Related or Transitional Child Care funds, the child care related costs must be included as part of the child care rate. Therefore, the social services district may wish to prorate the one-time expense into the child care rate over a specified period of time rather than paying a higher rate indefinitely.

The availability of reimbursement for child care payments for children with special needs for the actual cost of care up to $204 per week is not intended to supplant either the existing pre-school programs for children with handicapping conditions or programs described by Article 89 (Section 4401-4410) of the Education Law. Social services districts should seek funding and services through these sources and through the medical assistance program for items such as special equipment, transportation and materials and supplies recommended by a physician, before either adjusting a child care provider's rate or paying for an item as an administrative expense.

The social services district may submit a written request for Department approval of other child care related services and related additional costs that are not covered by this ADM.

**C. Eligibility**

Reimbursement for the actual cost of care up to the statewide limit of $204 per week or $884 per month is available for care of children with special needs when such care is provided as JOBS, Employment-Related, Transitional, Low Income, or Title XX Child Care, including Preventive and Protective Child Care. All other eligibility criteria which apply to the specific program must be met.

When providing child care services for children with special needs under the JOBS, Employment-Related and Transitional Child Care programs such reimbursement is available for children up to age 18, or 19 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who are reasonably expected to complete the program before reaching age 19 who are in receipt or were formerly in receipt of ADC benefits. Such care is available for children less than 21 years of age who are in receipt or were formerly in receipt of HR or VA benefits. Children, otherwise identified above, who reside with ADC, HR, or VA families, and who are in receipt of Supplemental Security Income (SSI) benefits or IV-E foster care benefits are also eligible for child care at the special needs rate when any of the conditions identified in Section III. A. of this ADM exist.

Social services districts should note that when providing child care services for children with special needs reimbursement is available only when care is provided by licensed, certified or registered child day care providers, regardless of program funding.

Reimbursement will be available retroactive to April 1, 1990 for Transitional Child Care and October 1, 1990 for all other child care. However, retroactive payment will only apply to cases in which either the social services district or the parent has absorbed costs in excess of the local market rates in order to provide appropriate care for a child with special needs.

**IV. Required Action:**

**A. Documentation of Special Needs**

It is the social services district's responsibility to document the diagnosis of the child's condition and special service needs which have been identified by the appropriate physicians or other specialists as outlined in Section III. A. of this ADM. A written statement or report which has been obtained from the appropriate physician or specialist will constitute appropriate documentation.

An Individualized Education Plan (IEP) from the child's school may provide acceptable documentation of special needs when it is based on the opinions of appropriate professionals as identified in Section I. A. of this ADM. In order to be considered appropriate

documentation an IEP must identify a child's special **care needs** in addition to his/her special education needs.

**B. Referral**

Upon receipt of documentation that a child has special needs, the social services district must determine if the child is receiving program services as authorized either by Article 89 of the Education Law or the Medical Rehabilitation Program for Handicapped Children. If the child has not been evaluated for participation in the above programs, the social services district must assist the parent in applying for benefits under those programs.

**C. Verification of Additional Costs and/or Services**

Before authorizing payment in excess of the local market rate for child day care services for children with special needs, the social services district must verify that the caregiver is providing related services which are designed to meet the child's special needs and/or that the provision of care to the child with special needs results in additional costs to the child care provider. Verification of the provision of additional child care related services and/or the accrual of additional child care related costs may be in the form of an attestation from the child care provider and must be maintained in the case record. Social services districts may, but are not required to, visit a child care provider who is receiving a higher reimbursement for a child with special needs in order to verify that the child care provider is, in fact, providing additional child care related services or accruing additional costs.

**D. Redetermining Eligibility**

It is the social services district's responsibility to reevaluate a child's condition and special service needs at the time that a family's eligibility for publicly funded child care services is redetermined in accordance with the specific program requirements. A statement or report from the appropriate physician or other specialist must be obtained at the time of redetermination.

**E. Reporting**

The social services district is responsible for submitting a quarterly report to the State Department of Social Services which provides information on the number of children with special needs served at rates exceeding the local market rates, the ages of such children, the types of providers utilized for such children, the diagnosis categories and special services provided and the payment rates for such care. (See attachment) This information is not available on the system for all funding streams. Quarterly reports from social services districts will allow the Department to monitor the usage and costs associated with reimbursement of child care payments for children with special needs based upon the actual cost of care up to the statewide limit. The need to continue quarterly reporting will be assessed at the end of the first year.

## V. Systems Implications:

### A. Upstate

**1. JOBS- and Employment-Related Child Care**

Specific instructions for ABEL calculations for payment of child day care for a child with special needs are discussed in ABEL Transmittal 90-6.

**2. Transitional, Low Income and Title XX Child Care**

Payment for child day care for a child with special needs may be authorized through use of the usual WMS procedures.

### B. New York City

**1. Transitional, JOBS- and Employment-Related Child Care**

Specific instructions for authorization of child day care for children with special needs is discussed in the Public Assistance Budgeting Manual.

**2. Low Income and Title XX Child Care**

Payment for child day care for a child with special needs may be authorized using the appropriate local procedures for Low Income and Title XX Child Care.

## VI. Additional Information

### A. Claiming Instructions

Day Care for children with special needs should be claimed in the same manner all other day care within the Category of Assistance in the RF-2 and RF-2A claim packages.

Employment-related special needs day care should be authorized and paid through the Non-Services authorization. These expenditures should be claimed on the Schedule A for ADC and PG-ADC related expenditures, and the Schedule F for EAF Day Care.

All services authorized day care for special needs children should be claimed on line 2 of the Schedule G. The appropriate column to claim should be based on the category of assistance. Title XX expenditures are claimed in columns 2 through 8, depending on the Title XX breakout. EAF expenditures are claimed in column 10, while Low Income would be claimed in Column 11. Federally Participating Transitional Day Care expenditures are claimed in column 12, with PG-ADC Transitional Day Care expenditures being claimed under column 13, on line 2.

When Low Income Day Care or Title XX Child Care program costs are paid as administrative expenses, as explained on Page No. 6 of this ADM in relation to one-time child care related costs, these should be claimed on the Schedule D-2.

In addition, all special needs should be reported statistically on the Schedule G-2 along with all other Services and Non-Services Day Care.

**VII. Effective Date:**

The effective date of this ADM is September 1, 1991, retroactive to April 1, 1990 for Transitional Child Care and retroactive to October 1, 1990 for Low Income, Title XX, JOBS and Employment-Related Child Care.

_____
Joseph Semidei
Deputy Commissioner
Family and Children Services

**ATTACHMENT**
**QUARTERLY REPORT**
**CHILD CARE FOR CHILDREN WITH SPECIAL NEEDS**

**COUNTY**_____ **REPORTING PERIOD**_____

This report should reflect the number of children with special needs served at rates exceeding the local market rates.

**1. Number of children served by age group:**

under 18 months _____ 5 - 10 years _____

18 mos. - 3 years _____ 10-13 years _____

3 - 5 years _____ **TOTAL:** _____

**2. Number of children served by provider type:**

_____day care center _____family/group family day care

_____informal (provider's home) _____informal (in child's home)

**3. Number of children served by diagnosis:**

_____visual impairment _____deafness

_____hard of hearing _____orthopedic impairment

_____emotional disturbance _____mental retardation

_____learning disability _____speech impairment

_____health impairment _____autism

_____multiple handicaps _____other

**4. Describe the child care related services and additional costs accrued by providers which justified authorization of child care payments in excess of the local market**

**rates.**

_____
_____
_____
_____

**5. When payments for child care for children with special needs exceeded the local market rates, what range of fees did you pay?**

_____
_____

REPORTED BY:_____ _____
signature title and work unit

DATE:_____

# Commissioner Letter
# *Changes to Law Regarding Child Care in Lieu of Temporary Assistance*

The purpose of this Commissioners letter is to inform social service districts of changes in section 410-w of Social Services Law which impacts families who are eligible for child care in lieu of temporary assistance.

This page left intentionally blank.

**NEW YORK STATE**
**Eliot Spitzer, Governor**

**Office of Temporary and Disability Assistance**
David A. Hansell
Commissioner

**Office of Children and Family Services**
Gladys Carrión
Commissioner

October 3, 2007

Dear Commissioner:

Governor Eliot Spitzer signed into law Chapter 135 of the Laws of 2007 on July 3, 2007. This legislation amends section 410-w of the Social Services Law regarding families who are eligible for child care in lieu of temporary assistance (TA). The change in law and associated State policy eliminates the requirement that parents/caretakers work at least the minimum number of hours that would be required of them if they were in receipt of temporary assistance and allows OCFS to set a minimum that expands eligibility as described below. The change in law takes effect immediately. A copy of the amendment is enclosed.

The Office of Children and Family Services will be amending child care regulations to meet the new statutory requirements and will issue an Administrative Directive. All employed TA recipients with children under the age of 13, will receive a parent letter in a mailing from the Office of Temporary and Disability Assistance in the near future. The parent letter will be sent to all districts, via the GIS, in advance of the mailing to TA recipients. Additionally, the CNS recertification call in notice will be modified to include information about the in lieu of TA child care guarantee.

A telephone conference will be held on Friday, October 19, from 1:00 p.m. to 3:00 p.m. Audio bridge information is enclosed. In the meantime, social services districts are required to do the following:

- Apply the new child care in lieu of TA child care guarantee rules to applicants and provide them with a copy of the parent letter, once it is available; and
- Notify staff in both the TA and child care offices of the change in eligibility; and
- Begin determining eligibility for in lieu of TA child care guarantee based on the information provided in this letter.

In order to determine eligibility for the in lieu of TA child care guarantee, districts will need to determine if the applicant/recipient meets the following eligibility standards:

1. The parent(s) must be earning at least minimum wage unless he or she is employed in a job where minimum wage is made by the combination of wages and tips or the employment is exempt from minimum wage rules; and

2. The parent(s) gross earned income must be equal to or greater than the amounts listed below or, if employed in a job exempt from minimum wage rules and paying less than minimum wage, he or she must meet the minimum number of work hours indicated below; and

3. The household would otherwise be eligible for TA.

| **Family** | **Minimum Gross Earnings** | **Minimum Number of Hours** |
|---|---|---|
| Single parent family earning minimum wage or more per hour or self employed | $125/wk. $542/mo. | N/A |
| Two-parent family when both parents are employed earning minimum wage or more per hour or self employed. | $179/wk. $774/mo. | N/A |
| Single parent in a job exempt from minimum wage rules and paying less than minimum wage per hour | N/A | 17.5 hours per week |
| Two-parent family where both parents are employed in a job exempt from minimum wage rules and paying less than minimum wage | N/A | 25 hours per week |

*Note: The above Minimum Gross Earnings amounts are based on a minimum wage of $7.15 per hour times 17.5 hours per week for a single parent family and 25 hours per week for a two parent family.*

Parents may be employed for *less* than the above number of hours provided their earned income is equal to or greater than the above amounts. Self employed parents must meet the above gross earned income minimums. For parents in jobs that are exempt from minimum wage rules and that pay less than minimum wage, the parent(s) must meet the minimum work hours. **The in lieu of TA child care guarantee applies only for hours while both parents are at work and reasonable time for the parent to get to and from work from the day care site.**

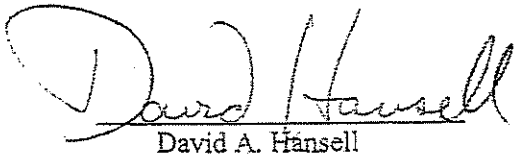
If income falls *below* any of the above respective amounts or *rises to or above* the amount that would allow the parent(s) to remain eligible for TA, the parent(s) will not be eligible for child care in lieu of TA. Once the parent(s) income is at or above the amount that would allow them to remain eligible for TA but is at or below 200% of the State Income Standards, the parent(s) may be eligible for transitional child care.

Calculation of income and hours worked for parents who have fluctuating income will be based on 18 NYCRR 404.5(b)(3) which reads as follows.

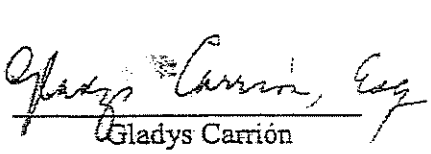
"If income fluctuates significantly, the average monthly amount will be based on income received during a period of not less than three or more than six months."

If you have any questions regarding the above information, please contact Anne Ball at (518) 372-9217 or email Anne.Ball@ocfs.state.ny.us.

Sincerely,



David A. Hansell
Commissioner
Office of Temporary and
Disability Assistance



Gladys Carrión
Commissioner
Office of Children and
Family Services

Enclosure

cc: Child Care Supervisor
Employment Coordinator
Temporary Assistance Director

LAWS OF NEW YORK, 2007

CHAPTER 135

AN ACT to amend the social services law, in relation to expanding resources available for working families to access child care in lieu of public assistance benefits

Became a law July 3, 2007, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision 4 of section 410-w of the social services law, as separately amended by chapters 586 and 569 of the laws of 2001, is amended to read as follows:

(a) Local social services districts shall guarantee applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child day care subsidies in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this subdivision, an eligible applicant for, or recipient of, public assistance benefits and who is employed includes a person whose gross earnings equal, or are greater than, the required number of work hours times the state minimum wage. Recipients of child care subsidies under this subdivision who are no longer eligible for public assistance benefits, shall be eligible for transitional child care described in paragraph (b) of subdivision one of this section as if they had been recipients of public assistance.

§ 2. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

**Determining Child care in lieu of TA Income Eligibility**

The gross earned income must be equal to or greater than the amounts listed in the chart below, or if the parent/caretaker relative(s) is employed in a job exempt from the minimum wage rules and paying less than minimum wage, he or she must meet the minimum number of work hours indicated on the chart; AND

The parent/caretaker relative(s) must be earning at least minimum wage (unless he or she is employed in a job where minimum wage is made by a combination of wages and tips) or the employment is exempt from minimum wage rules.

| **Family** | **Minimum Gross Earnings** | **Minimum Number of Work Hours** |
|---|---|---|
| Single parent family earning minimum wage or more per hour or self-employed | $127/week<br>or<br><br>$550/month | N/A |
| Two parent family when both parents are employed earning minimum wage or more per hour or are self-employed | $181/week combined<br>or<br>$784/month combined | N/A |
| Single parent in a job exempt from minimum wage rules and paying less than minimum wage per hour | N/A | 17.5 hours per week |
| Two parent family where both parents are employed in a job exempt from minimum wage rules and paying less than minimum wage | N/A | 25 hours per week combined |
| Two parent family:<br>One parent is employed earning minimum wage or more per hour or self employed<br><br>-and-<br><br>The other parent is in a job exempt from minimum wage rules and paying less than minimum wage per hour | $127/week<br>Or<br>$550/month<br><br><br><br><br>N/A | N/A<br><br><br><br><br><br><br>7.5 hours per week |

The above minimum gross earning amounts are based on the current minimum wage of $7.25 per hour times 17.5 hours per week for a single parent/caretaker relative(s) and the minimum wage of $7.25 per hour times 25 hours per week for a two parent family. However, parent/caretaker relative(s) earning more than minimum wage may be employed for less than 17.5 or 25 hours provided that their income is equal to or greater

than the above amounts. Self-employed parent/caretaker relative(s) must meet the above gross earned income minimums (see 95 OTDA INF-33 for self-employment budgeting). For parent/caretaker relative(s) in jobs that are exempt from minimum wage rules, the parent/caretaker relative(s) must meet the minimum work hours.

As the minimum wage increases in the future the districts will need to recalculate the minimum gross earnings needed to be eligible for child care in lieu of TA. The State minimum wage must be at least equal to the federal minimum wage in accordance with Section 652 of the Labor Law.

# 02-OCFS-INF-01
# *Former Family Assistance Families Eligible for Transitional Child Care Guarantee*

The purpose of 02-OCFS-INF-01, *Former Family Assistance Families Eligible for Transitional Child Care Guarantee*, is to advise social services districts of the potential eligibility of former Family Assistance (FA) recipients for the Transitional Child Care (TCC) guarantee. Some FA families have already or will soon reach their State 60-month time limit of cash assistance.

This page left intentionally blank.

**George E. Pataki**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**John A. Johnson**
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 02 OCFS INF-01 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Office of Children and Family Services-Division of Development and Prevention Services<br>Office of Temporary and Disability Assistance |
| **Date:** | March 5, 2002 |
| **Subject:** | Former Family Assistance Families Eligible for Transitional Child Care Guarantee |
| **Suggested Distribution:** | Services Directors<br>Income Maintenance Directors<br>Child Care Unit Supervisors<br>Food Stamp Directors<br>Medical Assistance Directors |
| **Contact Person(s):** | Transitional Child Care Issues: Anne Ball (518)474-3775<br>Temporary Assistance Issues: TA Central Team 1(800)343-8859 ext 4-9344 |
| **Attachments:** | A: Client Letter Regarding Potential Eligibility for the Transitional Child Care Guarantee |
| **Attachment Available On – Line:** | ☐ |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| | | 415 | 410 | | |

## I. Purpose

The purpose of this release is to advise social services districts of the potential eligibility of former Family Assistance (FA) recipients for the Transitional Child Care (TCC) guarantee. Some FA families have already or will soon reach their State 60-month time limit of cash assistance.

FA recipients who are working, whose cases are closing due to the State 60-month time limit, and who do not apply for Safety Net Assistance (SNA) prior to case closing, may be eligible for TCC. Families that have not applied for SNA prior to the closing of their FA case are deemed to have voluntarily ended their FA and are therefore potentially eligible for TCC.

Families that apply for SNA after their FA case was closed due to the State 60-month time limit have a 45-day application period before they are eligible to receive recurring SNA benefits. During this 45-day application period, these families may need child care services. The district must determine the eligibility of the family for TCC. If the family does not meet the criteria, the district must consider eligibility for other categories of eligible families under the New York State Child Care Block Grant (NYSCCBG).

## II. Background

The purpose of the TCC guarantee is to provide eligible families with a 12-month guarantee of child care to allow them a smoother transition from Temporary Assistance (TA)[1] to self-sufficiency. This guarantee has been in place since 1990. In recent years, the TCC guarantee was extended to families whose TA cases closed due to increases in child support income and to those who voluntarily closed their TA cases.

## III. Program Implications

Former TA families, who meet the following criteria are deemed to be eligible for the TCC guarantee. The family:

1. needs child care for an eligible child under thirteen years of age in order to enable a parent or caretaker relative to engage in work; **and**

2. has income of no more than 200 percent of the State income standard; **and**

3. has been in receipt of TA (including the Child Assistance Program-CAP) in three of the six months prior to the TA case being closed, **and**

4. had their TA terminated as a result of:

    a. increased hours of, or income from, employment. (Former CAP recipients who are ineligible for Safety Net Assistance due to the income limits are deemed to meet this criteria at the time their State 60-month limit for TA expires regardless of whether or not their income increases at that time); or

    b. increased income from child support; or

    **c.** the family voluntarily ended temporary assistance. **Former FA recipients who do not apply for SNA benefits prior to the FA case closing due to the State 60-month time limit are deemed to have voluntarily ended their temporary assistance.**

Social services districts must review all TA cases prior to case closing to determine whether the family meets the above eligibility criteria for the TCC guarantee. TA case information may be used to determine eligibility. All low income child care **applications** received on or after December 1, 2001 must be reviewed to determine if the case would be eligible as a transitional child care case under the

[1] The term "public assistance" has been replaced by the term "temporary assistance". Temporary Assistance encompasses both Family Assistance and Safety Net Assistance.

new criteria in 4 c, above. All low income child care **open cases** with an effective date of December 1, 2001 or later must be reviewed to determine if the family is eligible for TCC.
If a child care application was denied (between December 1 and the date of issuance of this release) due to lack of funds in the district, it must also be reviewed to determine if it meets this new criteria. If it does, the case must be opened and a determination made regarding the applicant's eligibility for retroactive payments.

Some families whose FA case has closed may apply for SNA after the FA case closing. The application for SNA should be used to determine eligibility for TCC as well. These families are eligible for TCC only during the time period beginning when their FA case closed and ending with the SNA case opening. Once the SNA case opens, the families are eligible for guaranteed child care assistance if such assistance is needed in order to participate in work activities as required by the social services district.

If the family does not apply for SNA, but has a continuing need for child care, every effort should be made to use information available from the FA case record to determine eligibility for TCC rather than requiring a new application. Effective June 17, 2002, an amendment to the Social Services Law will take effect which will prohibit districts from requiring a new application for TCC. Districts do not have to wait for this new law to take effect and are encouraged to begin the process now to establish procedures to eliminate the need for a separate application for TCC.

A services authorization is required to open the child care case under the TCC guarantee. Districts have the option to authorize child care on the DSS 3209 for Medical Assistance-only and Food Stamp-only cases. All other requirements under the NYSCCBG, such as enrollment of legally-exempt providers, must be met prior to making payment. If a family receiving TCC applies and begins receiving SNA benefits, their child care must either be opened and authorized on the SNA case using screen 9 or, for those districts authorizing TA cases on the services system, the case must be re-coded using an "S" suffix.

A model client letter informing FA recipients about the potential eligibility for child care, is attached. Use of this letter is optional. Districts may add information to give families district-specific information. **Please note that the client letter does not replace the client notice required in 01 OCFS LCM-8, revised Client Notification Forms for Child Care Subsidies.**

The effective date for this release is December 1, 2001.

*/s/ Patricia A. Stevens*

**Issued By:**
Patricia A. Stevens
Deputy Commissioner
Office of Temporary & Disability Assistance
Division of Temporary Assistance

*/s/ Larry G. Brown*

**Issued By:**
Larry G. Brown
Deputy Commissioner
Office of Children and Family Services
Division of Development & Prevention Services

Attachment A

**Client Letter Regarding Potential Eligibility for Transitional Child Care**

Dear :

Even though your Family Assistance (FA) case is closing because you have reached your State 60-month time limit, you may still be eligible for help in paying for child care. You may be eligible for child care benefits whether or not you decide to apply for Safety Net Assistance. Your child care benefits **will not** automatically continue. In order to find out if you are eligible for child care assistance, you will need to do the following.

Tell your FA worker that you need help in paying for child care. Your worker can tell you what information will be needed to determine if you will be eligible for child care.

Ask your worker what you need to do in order to receive help with your child care. In some counties, you may need to fill out a new application. Your worker can tell you where to apply. In other counties, you may not need to complete a new application but you will need to provide information in order for your child care to continue.

If you do **not** apply for child care, any child care benefits that you receive as an FA recipient **will end** when your FA case closes.

If you need help paying for child care after your FA case closes, make sure you contact your worker right away for information on how to continue your child care benefits.

# 04-OCFS-ADM-01
# *Guaranteed Child Care in Lieu of Temporary Assistance*

The purpose of 04-OCFS-ADM-01, *Guaranteed Child Care in Lieu of Temporary Assistance, Payment During Breaks in Activities, Eligibility for Family in Post-Secondary Education, No Application for Transitional Child Care,* describes amendments to the Social Services Law (SSL) section 410-w regarding eligible families under the New York State Child Care Block Grant (NYSCCBG).

This page left intentionally blank.

**George E. Pataki**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**John A. Johnson**
*Commissioner*

# Administrative Directive

| | |
|---|---|
| **Transmittal:** | 04-OCFS-ADM-01 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Development and Prevention Services |
| **Date:** | June 29, 2004 |
| **Subject:** | Guaranteed Child Care in Lieu of Temporary Assistance<br>Payment During Breaks in Activities<br>Eligibility for Families in Post-Secondary Education<br>No Application for Transitional Child Care |
| **Suggested Distribution:** | Directors of Services<br>TANF Directors<br>Child Care Unit Supervisors<br>Transitional Benefits Unit Supervisors<br>Medical Assistance Directors<br>Food Stamp Directors<br>Child Support Enforcement Unit Supervisors |
| **Contact Person(s):** | OCFS: Anne Ball (518) 474-3775, E-mail: Anne.Ball@dfa.state.ny.us<br>OTDA: 1-800-343-8859 extension 4-9344<br>Medical Assistance Local District Liaison:<br>Upstate: (518) 474-8216<br>NYC: (212) 268-6855 |
| **Attachments:** | A: Client Letter-Child Care Guarantee<br>B: Request for Child Care Assistance or Request to Close My TA Case<br>C: Request for Amendment to CSP/ISP<br>D: Applicant Certification of Information in TA Case Record<br>E: LDSS-4782-Notice of Intent to Discontinue Child Care Benefits<br>F: LDSS-4781 Notice of Intent to Change Child Care Benefits<br>G: Client Letter- Potential Eligibility for Transitional Child Care |
| **Attachment Available On – Line:** | yes |

**Filing References**

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 03 OCFS LCM 08<br>03 OCFS INF 05 | | Part 415 Part 352.20 | SSL 410-w | Fiscal Reference Manual, Vol. | |

| | | | | | |
|---|---|---|---|---|---|
| | | | | 2, Chapter 3 | |

## I. Purpose

The purpose of this release is to advise the local social services districts of amendments to the Social Services Law (SSL) section 410-w regarding eligible families under the New York State Child Care Block Grant (NYSCCBG).

Section 410-w of the SSL was changed to extend the child care guarantee to Temporary Assistance (TA) applicants. TA refers to both Family Assistance (FA) and Safety Net (SN) Assistance. TA applicants who would otherwise be eligible for, or are recipients of, recurring TA benefits and who are employed, can now choose child care "in lieu of TA" and be afforded a guarantee of child care benefits, regardless of whether federal or state funding is available to the district.

Other changes to SSL require districts to provide child care subsidies for TA recipients during breaks in certain activities; allow districts to pay for post-secondary education for low income families who are working a minimum of 17½ hours a week; and prohibit requiring a new application for families whose TA cases are closing and who have a continuing need for child care in order for parents to work. The amendment providing the new "in lieu of TA" child care guarantee became effective December 19, 2001. All the other amendments became effective June 17, 2002. Section IV of this release, entitled Required Actions, provides information regarding implementation of these changes.

## II. Background

The changes in law revise the provision in Chapter 391 of the Laws of 1999 that required districts to provide child care subsidies to eligible working families that choose to receive such subsidies "in lieu of TA" *only to the extent there is available federal funding*. The impact of this change is that districts now must guarantee child care subsidies to these families regardless of the availability of federal or state funds. This will assist certain low income families to achieve self-sufficiency by guaranteeing them the child care subsidies they need to maintain their employment without requiring them to receive TA benefits they may not want.

Districts received information regarding the extension of the guarantee in two previous releases. The Assurances Section to 02 OCFS LCM-04: Guidelines and Instructions for Preparing Annual Plan Updates, dated February 14, 2002, describes families eligible for the child care guarantee under the NYSCCBG. All families eligible under NYSCCBG are also described in 02 OCFS LCM-09: NYSCCBG Subsidy Program Allocations, dated June 7, 2002; 03 OCFS LCM-08: NYSCCBG Subsidy Program Allocations, dated July 18, 2003; and 03 OCFS LCM-19: Strategic Planning and Policy Development, dated November 5, 2003.

The amendment requiring child care subsidies to be provided to TA recipients during breaks in activities provides a safeguard against the loss of child care arrangements that could impact the ability of parent(s) or caretaker relatives(s) to continue to participate in these activities.

Districts also are now prohibited from requiring a new application for TA recipients whose cases are closing and who are working and eligible for the transitional child care guarantee. This recognizes the need to provide continued support to enable the parents to retain their employment. Prior to this change in law, districts were required to issue a client notice regarding the termination of child care benefits when a parent's TA was terminated. A parent who had a continuing need for child care would then have to reapply for child care benefits. The amendment to the law now shifts the onus to the district to make

a determination regarding continuing child care eligibility and to authorize child care concurrently with closing the TA case.

02 OCFS INF-01, Former Family Assistance Families Eligible for Transitional Child Care, dated March 5, 2002, alerted districts to the statutory amendment prohibiting a new application for transitional child care and encouraged districts to begin the process to eliminate the need for a separate application for transitional child care.

Another change gives districts the option to pay for child care for parents or caretakers who are pursuing four-year college programs as long as the parents or caretakers work at least 17½ hours per week.

## III. Program Implications

## A. EXTENSION OF THE CHILD CARE GUARANTEE

### Eligibility Requirements For "In Lieu of TA" Child Care

In order to be eligible for the new "in lieu of TA" child care guarantee, the family must have income at or below the amount that would allow them to become or remain eligible for TA and their resources must be within TA limits. They must also be engaged in work as required by the social services district.

The parent or caretaker relative must:

- apply for and be otherwise eligible for TA by completing the DSS 2921- ***Statewide Common Application,*** but choose to receive child care "in lieu of TA" or voluntarily close his or her TA case *while still eligible for* TA; **and**
- need child care for a child under 13 years of age in order to enable the parent or caretaker relative to engage in work; **and**
- be in receipt of, or actively pursuing court-ordered child support, or be determined to have good cause not to actively pursue child support. A parent or caretaker relative will be considered to meet the good cause exception if he or she has a Domestic Violence (DV) waiver dated within the previous 12 months. If the parent or caretaker relative makes a claim of domestic violence but does not have a recent DV waiver, he or she must document that he or she meets the good cause requirements as described in 99 ADM-05, Cooperation with Child Support Enforcement.

Recipients who voluntarily reduce their income or work hours in order to maintain eligibility for the guarantee will lose the guarantee. The following is the TA denial/closing language. "This is because (You/Name) quit a job or reduced earnings on (Date). (You/Name) did not give us information to show that this was done for a reason other than to maintain eligibility for public assistance. This decision is based on Regulation 12 NYCRR 1300.13(a)." These individuals may then apply for the regular low-income child care subsidies that are available to working families. However, their receipt of child care benefits will be dependent upon the availability of funds in the district.

A parent or caretaker relative will be considered "engaged in work" if he or she meets the following criteria:

- is working for at least the following number of hours: 20 hours for a single parent with a child under the age of six; 30 hours for a single parent whose children are all six or older; in two

parent families, the parents must be working a combined total of 55 hours with at least one parent working 30 or more hours; and, either:

- ❖ is earning wages at a level equal to or greater than the minimum amount required under federal and state labor law for the type of employment; or
- ❖ is self-employed and is able to demonstrate that such self-employment produces personal income equal to or greater than the minimum wage, or has the potential for growth in earnings to produce such an income within a reasonable period of time.

A parent or caretaker relative will be considered in receipt of or actively pursuing court-ordered child support if he or she:

- is receiving child support services through the IV-D agency, or completes and submits a DSS-2521 (Child Support Services Application) and receives necessary services to receive child support collections. This means the parent or caretaker relative is cooperating as required to establish paternity and obtain court-ordered support; or
- can demonstrate he or she is receiving child support collections, through court-ordered support, or is taking actions necessary to receive child support collection via private legal means. Private legal means includes representation by an attorney or pro se representation by a parent or caretaker relative who demonstrates knowledge of the paternity establishment and child support process; or
- has been excused from paternity establishment, child support requirements or support enforcement for good cause.

**Construction of the Assistance Unit**

Unlike other low income families, the child care services unit for child care "in lieu of TA" consists of those members of the household who would be included in the TA filing unit [18 NYCRR Section 352.30(a)], and those legally responsible non-filing unit members in the household if TA rules [18 NYCRR Section 352.30(e)] require such individuals' income and/or resources to be considered when determining the eligibility of the TA applicants.

**Alien Status and Social Security Numbers**

Applicants and all other members of the assistance unit must provide their Social Security Numbers (SSNs) if required under TA rules. At least one parent or caretaker relative must meet the alien status and SSN requirements for TA.

**Financial Eligibility**

Financial eligibility is determined using TA eligibility rules (i.e., not services rules), including the methodology for calculating countable income, resources and need, taking into account shelter, utilities and any other TA related expenses that would normally be used in the determination of financial eligibility for TA.

**Programmatic Eligibility**

Programmatic eligibility for child care in lieu of TA is described under eligibility requirements for "In lieu of TA" child care. Eligibility differs from TA requirements in the area of property liens, and domestic violence (DV) and drug/alcohol screening. Families who choose child care "in lieu of TA" do not have to sign a property lien and are not required to submit to a drug/alcohol screening as a condition

of eligibility. In addition, the district is not required to conduct DV screening on an applicant who has chosen child care "in lieu of TA".

**Automated Finger Imaging System (AFIS)**

Depending on the district's procedures, AFIS may be conducted very early in the TA application process or later. If, according to the district's process, finger imaging is required before the TA applicant's interview and if the client refuses to be finger imaged, the applicant is not eligible for TA or for child care "in lieu of TA".

**Recertification for "In Lieu of TA" Child Care**

A family's eligibility must be redetermined at least every 12 months and more frequently when case circumstances have changed.

**Time Limits**

There are no time limits attached to this guarantee**.** Eligible families will continue to be eligible for the guarantee as long as they need child care in order to engage in work, their income is at or below the amount that would allow them to become or remain eligible for TA, their resources are within TA limits, and they otherwise meet TA eligibility requirements pertaining to child support and employment.

**Family Share**

Each family eligible for the "in lieu of TA" child care guarantee must pay a family share. Due to the fact that their income will fall below the poverty standards, the family share is set at the minimum of $1 per week.

**Impact on Transitional Child Care Eligibility**

Prior to this change in law, working families who voluntarily closed their TA cases *while still financially eligible for TA* would have been eligible for the transitional child care guarantee. With this change in law, these families now are eligible to receive child care subsidy as part of the "in lieu of" child care guarantee rather than the transitional guarantee. Once they become ineligible for TA because of increased hours of employment, excess earned income, increases in child support, or once they voluntarily close their "in lieu of TA" child care case while still eligible for TA, these families will be covered under the transitional guarantee, assuming they meet all other eligibility criteria. Please note that families, who become ineligible for TA due to an increase in resources, do not meet the eligibility criteria for the transitional child care guarantee.

**Impact on Food Stamps and Medical Assistance**

There are implications for both Food Stamp and Medical Assistance benefits because of the new guarantee. Initial applications for TA or recertification forms are also considered applications for Food Stamps. Therefore, if an applicant (at initial application or recertification) is found eligible for TA but chooses child care "in lieu of" TA, the district must do a separate determination of his/her Food Stamp eligibility. If the parent or caretaker relative has unreimbursed child care expenses, which could occur in situations where the provider charges more than the market rate, the unreimbursed expenses are

deductible expenses for the Food Stamp program. Family Assistance recipients and federally participating Safety Net recipients who request that their cases be closed in order to receive child care "in lieu of TA" must, if otherwise eligible, receive transitional Food Stamp benefits.

If an applicant for TA chooses child care subsidies "in lieu of TA" and the applicant also checks the Medicaid box on the application, the application and applicable documentation must be referred to the Medicaid unit for a separate Medicaid eligibility determination. If, at recertification, a recipient chooses either to receive only the child care subsidies "in lieu of TA", or to voluntarily close his or her case while still eligible for TA, closing code (F98) must be used. Currently, F98 creates a separate Medicaid case for 30 days. The Medicaid worker must extend the Medicaid authorization for the remainder of the 12 months from the date of the last TA recertification. In the near future, a systems modification will be made so that the Medicaid will continue unchanged. Districts will be notified when the system is modified. In the event that the client does not want Medicaid, Upstate code M90 "Client Request-PA and MA written" should be used on the Welfare Management System (WMS) and M90 plus F98 on the Client Notices System (CNS); in NYC, case level code G89 "Client Request-PA and MA-written" should be used.

Recipients who are eligible for transitional child care benefits due to an increase in income and subsequent loss of TA eligibility will continue to be referred for a separate Medicaid determination, as is current procedure, unless the clients request their Medicaid cases be closed at the same time as the TA cases.

## B. CHILD CARE DURING BREAKS IN ACTIVITIES

Social services districts must provide child care subsidies for TA recipients during breaks in work or an approved activity. Payment for child care during approved or allowed breaks in activities is mandated and is limited to a period of up to two weeks. However, child care may be authorized for up to one month if the child care arrangements would be lost if not continued, and the employment or approved activity is scheduled to begin within that one-month period. There are no limits on the number of approved or allowed breaks for which child care may be authorized so long as the recipient is participating as required in his or her work or approved activity.

## C. POST-SECONDARY EDUCATION

Districts now have the option to include in their Consolidated Services Plan (CSP) or Integrated County Plan (ICP) the provision of child care subsidies to families with incomes at or below 200 percent of the state income standard who are satisfactorily participating in a post-secondary educational program as long as the parent(s) or caretaker(s) is also working at least 17½ hours per week, when funds are available. 04 OCFS INF-02 provides 2004-05 Income Eligibility Standards. It is obtainable via the following link: http://sdssnet5/ocfs/policies/external/OCFS_2004/. This option applies to TA recipients and low income families so long as the recipients also are participating, as required, in work activities and the district approves the educational activity for the particular recipient. Four-year post-secondary programs are not an approved work activity for TA recipients to meet the work participation rates. Therefore, the individual TA recipient must be in compliance with all applicable work requirements before he or she may be approved for this additional activity. If this option were selected for TA recipients, the subsidy would cover child care needed for the approved activities in addition to the hours needed for the client to participate in his or her required activities.

This option pertains to individuals who are attending a two-year undergraduate college program (other than one with a specific vocational sequence leading to an associate degree) or a four-year college or

university program leading to a bachelor degree that is reasonably expected to improve the earning capacity of the caretaker. The caretaker must be participating in non-subsidized employment whereby the caretaker earns wages at a level equal to or greater than the minimum amount required under federal and state labor laws. He or she must also demonstrate his or her ability to successfully complete the course of study and must maintain satisfactory progress.

This amendment has no impact on the option districts currently have to provide child care subsidies to a parent(s) or caretaker(s) who is enrolled in a two-year full-time degree granting program with a specific occupational goal at a community college or a two-year college; nor to those enrolled in an undergraduate or community college program with a specific vocational sequence leading to an associate degree or certificate of completion within a specified time frame not exceeding 30 consecutive calendar months. In both of these latter cases, the minimum work hours are not applicable unless a district chooses to add a minimum number of work hours as a condition of eligibility and include this additional eligibility requirement in the district's CSP or ICP.

## D. NO APPLICATION REQUIRED FOR TRANSITIONAL CHILD CARE

Districts must make sure that families who are transitioning from TA and meet the criteria set forth below suffer no break in child care services and do not have to apply for transitional child care. Districts must take a proactive role in determining a family's eligibility for the transitional child care guarantee prior to the TA case closing. This requirement pertains only to cases where the parent or caretaker relative is receiving a child care subsidy at the time of case closing. However, districts may extend this option to all transitioning families.

The statutory prohibition against requiring a TA recipient whose case is closing from reapplying for child care goes beyond requiring a parent or caretaker relative to complete a new application. It means that the district must determine the parent's or caretaker relative's need for child care and eligibility for the transitional guarantee before closing the TA case. If the parent or caretaker relative has a continuing need for child care and is eligible for the transitional child care guarantee, the district must continue the family's child care subsidies without interruption by authorizing transitional child care.

Transitional child care assistance must be guaranteed to the parent or caretaker relative for a period of 12 months after TA has been terminated or ended if the parent or caretaker relative:

1. needs child care for an eligible child under 13 years of age in order to enable a parent or caretaker relative to engage in work. "Engaged in work" for low income families means that the individual is earning wages at a level equal to or greater than the minimum amount required under federal and state labor laws for the type of employment; or the individual is self-employed and is able to demonstrate that the self-employment produces personal income equal to or greater than the minimum wage or has the potential for growth in earnings to produce such an income in a reasonable period of time; and
2. has income of no more than 200 percent of the state income standard; and
3. has been in receipt of TA [ or Child Assistance Program, (CAP)] in three of the six months prior to the TA case being closed; and
4. had his or her TA terminated as a result of:

    a. increased income from employment (former CAP recipients who are ineligible for Safety Net Assistance due to the income limits are deemed to meet this criteria at the time their five-year limit for TA expires regardless of whether their income increased); or

b. increased income from child support; or
c. the parent voluntarily ended assistance *and is no longer financially eligible for TA*. (Former FA recipients who do not apply for SN benefits prior to their FA case closing are deemed to have voluntarily ended their TA). Additionally, a parent or caretaker relative who fails to recertify, but otherwise meets the eligibility criteria for the transitional guarantee, shall be considered to have voluntarily ended assistance.

## IV. Required Actions

### A. EXTENSION OF THE CHILD CARE GUARANTEE

Effective immediately, districts must put safeguards in place to prevent any parent or caretaker relative from being denied "in lieu of TA" child care benefits. No parent or caretaker relative shall have child care benefits terminated without a review of the family's eligibility for the new guarantee, while the district begins full implementation of the statutory amendments. In order to begin implementation and notify recipients about the new guarantee, districts are required to send the attached client letter, Attachment A: Client Letter-Child Care Guarantee, to all TA recipients at recertification or next case action. The letter informs the applicant/recipient (A/R) about the new guarantee, the eligibility requirements and the A/R's responsibilities.

TA *applicants* must be given the client letter at the time of application. TA *recipients* must be given the client letter with each subsequent "Notice of Recertification for Public Assistance" (CNS Call-in Notice). CNS will include this in the CNS Call-In Notice. It must be included in any Call-In Notices mailed by local districts. The language will also be incorporated into LDSS-4148A: What You Should Know About Your Rights and Responsibilities.

If an A/R expresses an interest in the new child care guarantee, the district must determine the family's eligibility for the guarantee and inform the parent or caretaker relative of that determination. Applicants must complete the LDSS-2921. Eligibility is determined by using TA rules for calculation of countable income and resources. The family unit is determined based on TA rules for the TA assistance unit and must include legally responsible non-filing unit members in the household if TA rules require such individuals' income/resources to be considered when determining the eligibility of the TA applicant. Families are required to pay a family share/fee based on the income of the family unit. Only one family share is required for each family regardless of the number of children needing care. The family share is $1.00 per week regardless of the number of children receiving child care.

The A/R should sign Attachment B: Request for Child Care Assistance, or Request to Close My TA case. A copy of the signed request form must be given to the parent or caretaker relative. The original must be kept in the case file.

Redeterminations of eligibility must be made at least every 12 months and more frequently when individual case circumstances change, including but not limited to a change in income**.** Once the family's income exceeds the TA income standards, the family is eligible for transitional child care as if it had been receiving TA, assuming all other eligibility criteria for transitional child care are met. Please refer to section III, D, No Application Required for Transitional Child Care, for further information. No application may be required for transitional child care.

If a recipient moves from one district to another while in receipt of "in lieu of TA" child care, the district from which the recipient moved is responsible for the child care benefits during the month in which the recipient moved and the first full month after the move.

Please note: 18 NYCRR Part 352.20(d) provides that an applicant's eligibility for FA or SN Assistance must be determined without taking into consideration the percentage earned income disregard unless the applicant's needs were met in whole or in part by FA or SN payments for any one of the four preceding months. In other words, the applicant must pass the net income test without the percentage disregard. If eligible, the percentage disregard is allowed. When the applicant is found financially eligible for TA but chooses child care "in lieu of TA", the percentage earned income disregard must be allowed - when determining ongoing eligibility for "in lieu of TA" child care cases that pass the gross income test.

## B. CHILD CARE DURING BREAKS IN ACTIVITIES

Effective immediately, if a recipient has a break in an approved/required activity, districts must determine whether the recipient will be returning to an approved/required activity within a two-week period or within a one-month period. They must also determine if the child's placement with the child care provider would be lost if child care benefits were not continued during the break in activity; and whether the reason for the break in activity is approved or allowed by the district.

If the TA recipient is going to return to an approved/required activity within two weeks, child care benefits shall continue for the two-week period. If the TA recipient will not be returning to an approved/required activity within two weeks, but is scheduled to return within a month of the break in activities, the district must continue child care benefits if the child care placement would be lost if benefits were not continued. An example of an approved break would be a teen that is on a break from high school for the school's holiday break. ***There is no maximum number of breaks per year.***

## C. POST-SECONDARY EDUCATION

Districts that choose to provide subsidies to families where the parent or caretaker is satisfactorily participating in a post-secondary educational program including a four-year college and is also working at least 17½ hours per week must indicate such in their CSP or ICP. A district choosing to offer this option may determine which post-secondary education programs are acceptable and may define "satisfactory progress." Districts may also impose a minimum number of working hours that is greater than 17½ hours. Districts that wish to choose this option and have not currently selected this option in their CSP or ICP must amend their CSP or ICP. Districts may request an amendment to their CSP or ICP at any point after the effective date of this release using Attachment C, Request for Amendment to Consolidated Services Plan/Integrated County Plan. If a district chooses to amend its plan to add this new category of eligibility, public notice of the change must be provided in accordance with 18 NYCRR Section 401.7. If a district wishes to offer this option with limitations, it must describe the limitations in its amendment to the CSP or ICP.

## D. NO APPLICATION REQUIRED FOR TRANSITIONAL CHILD CARE

In order to fully implement the change in law and to facilitate the transition from TA to the transitional child care guarantee without disruption, districts must put a process in place which makes information from the TA case record readily available to the person or unit that the district designates as responsible for determining eligibility for transitional child care.

District staff will need to take information from the TA record, and update only such information as may be needed to ascertain eligibility for the transitional child care guarantee. In order to continue child care as a transitional case, the worker will need to verify the following information from the case record or from the parent or caretaker relative: household composition, current income, work schedule and child care provider information. The worker will also need to know the length of time the parent or caretaker relative was in receipt of (or eligible for) TA, and the reason for the case closing. The parent or caretaker relative should be asked to verify that information contained in the TA record (such as household composition, address, etc.) is accurate and up to date. This may be accomplished by asking the parent or caretaker relative to initial and date any information being used from the TA record, or by asking the parent or caretaker relative to sign the model form, Applicant Certification of Information in Temporary Assistance Case Record, which has been provided as Attachment D of this release. If this certification will be done through the mail, the worker must send copies of the application/recertification, child care provider enrollment forms and any other documents for which the parent or caretaker relative is being asked to certify thereof. These copies should be attached to the Applicant Certification of Information in Temporary Assistance Case Record.

There may be cases in which the parent or caretaker relative does not respond to requests for information needed to determine eligibility for transitional child care. If a district is unable to determine transitional child care eligibility, the child care benefits the parent or caretaker relative had received as a TA client must be discontinued and the parent or caretaker relative must receive the appropriate child care notice LDSS-4782, Notice of Intent to Discontinue Child Care Benefits which is provided as Attachment E. Child care case closing language should read "(You/Name) did not provide us with the information we requested to determine your continued eligibility for child care. Without this information your eligibility for transitional child care cannot be determined". If the parent or caretaker relative contacts the district requesting child care within 12 months after the TA benefits are terminated, the district will need to determine if the family meets the eligibility requirements for the transitional child care guarantee. If it does, the family's eligibility for the transitional guarantee would begin back to the point in time that its TA case closed and continue for 12 months from that date. In these cases, a new application can be required.

Districts must send notice of intent to change benefits to all employed recipients of TA whose TA is ending, when the parent or caretaker relative meets the transitional child care eligibility criteria. The notice of intent to change benefits is necessary because the parent will now be required to pay a family share of the cost of child care. The family's responsibility to pay a family share reduces the amount of the district's payment for child care, necessitating this notice. The LDSS-4781, Notice of Intent to Change Child Care Benefits, is provided as Attachment F. It can also be accessed through the OCFS Intranet website. Go to the Resources link, click on External Policies, select the year 2001, and find 01 OCFS LCM 08, Revised Client Notification Forms for Child Care Subsidy. http://sdssnet5/ocfs/policies/external/OCFS_2001/default.htm. For all other TA case closures, districts must send Attachment G: Client Letter-Potential Eligibility for Transitional Child Care Benefits.

If a recipient moves from one district to another while in receipt of transitional child care, the district from which the recipient moved is responsible for the child care benefits during the month in which the recipient moved and the first full month after the move.

## V. Systems Implications

Districts may authorize payment in WMS/Services for a new "in lieu of TA" child care guarantee case on the DSS-2970 WMS Services Authorization. Alternatively, child care may be authorized on a

Medical Assistance or Food Stamp case. For child care authorized on a Food Stamp or Medical Assistance case, a new special claim code “9” is now available to identify "in lieu of TA" child care.

A Client Notification System (CNS) notice to the TA client will be generated when the new F98 reason code is used. The definition of F98 is: Client Requests Child Care in Lieu of TA. As noted in Section III A, Impact on Food Stamps and Medical Assistance, use of code F98 will prompt a Medicaid extension for 30 days. The Medicaid worker will have to extend the Medicaid authorization for the remainder of the 12-month period from the date of the last TA recertification. In the near future, modifications will be made to F98 to systemically allow Medicaid to continue unchanged. Districts will be notified once this change is made. If the client does not want Medical Assistance eligibility to be separately determined or continued, the worker can use Upstate: M90 - Client Request - Written - PA and MA on WMS and a combination of M90 and F98 on CNS. In NYC case level denial code F98 should be used. NYC is currently not producing CNS notices for denials. The worker will indicate on the manual notice that the applicant declined MA.

Day Care-Sub goal code 1E-Self Support should be used for transitional child care. This should be changed to the appropriate code once the family is no longer eligible for transitional child care. A new day care sub goal 1F has been requested for the purposes of tracking in lieu of TA child care cases but this system change will not be available in the near future. Districts will need to manually track such cases until system support becomes available.

## VI. Additional Information

### Claiming

NYSCCBG expenditures for child care subsidies for families receiving child care “in lieu of TA” are claimed on the Schedule H: Non-Title XX Services for Recipients (LDSS-4283), line 2, column 10 (Day Care Block Grant 100%). Please refer to the Fiscal Reference Manual Volume 2, Chapter 3, for detailed instructions for completing the Schedule H. Additionally, NYSCCBG child counts and expenditures by modality of care must be reported on the Schedule G-2: Summary of Payments for Day Care (LDSS-2109EL). Please refer to the Fiscal Reference Manual Volume 2, Chapter 3, for detailed instructions for completing the Schedule G-2.

### Reimbursement:

Claims for expenditures for child care services for families eligible under the “in lieu of TA” child care guarantee will be reimbursed at 100 percent with NYSCCBG funds up to the district’s NYSCCBG allocation.

### Contact Person:

If you have any questions regarding information contained in this ADM, please contact Anne Ball at (518) 474-3775. Ms. Ball may also be reached via the Internet at Anne.Ball@dfa.state.ny.us.

If you have questions regarding TA implications, contact Central Team at 1-800-343-8859, extension 4-9344.

If you have any fiscal questions, please contact the OTDA Bureau of Financial Services:

Regions 1 – 4 - Virginia Scala at (518) 474-7549;
E-mail: Virginia.Scala@dfa.state.ny.us

Region 5 –Michael Borenstein at (631) 854-9704
E-mail Michael.Borenstein@dfa.state.ny.us

Region 6- Marian Borenstein at (212) 383-1735
E-mail Marian.Borenstein@dfa.state.ny.us

If you have any WMS/Services questions, please contact the Bureau of Technical Services at 1-800-342-3727.

If you have any WMS/IM questions, please contact Tully Lenihan of the Office of Temporary and Disability Assistance at (518) 474-8749; Tully.Lenihan@dfa.state.ny.us.

If you have any Medical Assistance questions please contact the Medical Assistance Local District Liaison: Upstate (518) 474-8216 and NYC (212) 268-6855.

## VII. Effective Date

The effective date of this administrative directive is the date of release. The statute that mandates the "in lieu of TA" child care guarantee became effective on 12/19/2001. The statute that provides for payment during breaks in activities, allows payment for secondary education when a parent is working a minimum of 17 ½ hours and prohibits a new child care application for certain individuals transitioning from TA, became effective 6/17/02. OCFS will provide technical assistance and review implementation timelines for districts that identify issues or need assistance in implementing the changes in law.

*Larry G. Brown s/s*

**Issued By:**
Larry G. Brown
Deputy Commissioner
Division of Development and Prevention Services

**Attachment A: Client letter-Child Care Guarantee**

***Dear Parent:***

A new guarantee of child care assistance is now available for ***working*** families. You may decide that instead of **receiving** Temporary Assistance (TA) what you really need is help paying for child care. Families who are applying for or are receiving TA **and need child care in order to work**, may be eligible for a new child care guarantee for working families. A child care guarantee means that if you meet the eligibility requirements, the social services district must pay an eligible child care provider for your child care.

***Who is eligible?***

You are eligible for this guarantee if you are *applying for and found eligible for* TA and choose child care instead of TA or if you are *receiving* TA and ask that your TA case be closed, and:

- your income and resources are within TA limits;
- you are **working** the number of hours required by TA;
- you need child care for a child under age 13 so you can **work**;
- you are using an eligible child care provider; and
- you receive court-ordered child support, are actively pursuing support through the Child Support Enforcement Unit, are trying to get court-ordered support through other means, or have received a good cause exception from actively seeking support.

***What if I am worried that if I go after child support my partner may harm me or my child?***

You should discuss your situation with your worker. Your worker will determine whether you should receive a good cause exception from actively pursuing child support. You may be asked to provide hospital or police reports or statements from family, friends or neighbors who are aware of your situation.

***If I had a Domestic Violence (DV) Waiver while I was receiving Temporary Assistance doesn't that demonstrate good cause not to pursue support?***

If you can show your worker a DV Waiver dated within the last 12 months, the DV waiver demonstrates good cause. If your DV waiver is older than 12 months, you should discuss your situation with your worker so he or she can determine if you have good cause not to pursue support.

***Does my eligibility for this new child care guarantee have a time limit like the 60 month time limit for TA?***

No, your child care benefits are not limited to 60 months. You can continue to receive child care benefits for as long as you are eligible.

***Why don't I have a child care guarantee while I am on TA?***

Actually, you do. TA recipients who are participating as required in work activities also have a child care guarantee as long as you meet certain requirements. However, this new guarantee allows you to receive the same guarantee of child care without having to remain on TA. Your eligibility for the child care guarantee is not time-limited and the guarantee will continue as long as you remain eligible. If you decide you need TA in the future, you may still apply for it.

***If I decide all I really need is child care how do I apply for the new child care guarantee?***

If you are eligible for TA and decide that all you really need is child care, your worker can tell you how to apply for the new child care guarantee. If you are already *receiving* TA and are otherwise eligible for the program, you will need to close your TA case in order to get this new guarantee.

***Will all of my child care be paid?***

If you chose to receive child care assistance instead of receiving TA and child care, you will have to pay part of your child care costs. This is called your family share or fee. The amount that you pay will be $1 per week. Additionally, if your provider charges more than the market rate, you will need to pay the amount that your child care provider charges above the market rate. Ask your worker to tell you how much you will have to pay in a family share or fee.

***Who can care for my child?***

You can choose from many different eligible child care providers including licensed or registered day care centers, family or group family day care homes or school-age child care programs. You can also choose a relative, neighbor or friend. If you want a relative, neighbor or friend to care for your child, he or she will need to enroll with the Department of Social Services. Ask your worker for the enrollment forms.

***What if I change my mind and decide that I need TA as well as child care?***

You can still apply for TA at any time. If you are found eligible for TA, you may still be eligible for child care.

***What about other benefits like Food Stamps and Medical Assistance?***

Your Food Stamp eligibility will not be affected if you request to change your application for TA to a request for child care assistance only or if you request to close your TA case to get child care assistance only.

If you have applied for Medicaid at the same time you applied for TA and/or Food Stamps, and you choose to receive child care only, your application will be referred to the Medicaid program for a separate determination. If you are currently receiving TA and request your case closed, you can request that your Medicaid be continued. If your case is closed for increased earnings, your case will be referred to the Medicaid unit for a separate determination.

**Attachment B: Request for Child Care Assistance or Request to Close My Temporary Assistance Case**

I understand that the _____ Department of Social Services (DSS) has determined that I am eligible for a child care subsidy guarantee "in lieu of TA" because:

- I work the number of hours required of me; and
- My family's income and resources are within TA limits; and
- I do everything required of me to obtain child support for my child(ren) or have a good cause exception not to actively seek child support; and
- I need child care for a child or children under age 13; and
- I am using an eligible child care provider

I understand that I may use a licensed or registered child care provider. If I want to use a friend, relative or neighbor to provide child care instead of a licensed or registered child care provider, the DSS must determine if that person is eligible to receive child care payments from the DSS and the person must enroll with the DSS before he or she can be paid.

I understand that my child care provider determines how much he or she will charge.

I understand that I will be required to pay some of my child care costs. This amount will be $1 per week. If my provider charges more than the market rate, I understand that I will have to pay the amount above the market rate plus my family share. If I hire a child care provider to come to my home, I understand that as that person's employer, I must pay him or her minimum wage and benefits.

I understand that I must immediately report any changes that might affect my eligibility for child care to my caseworker. This includes any changes regarding where I am living, who is living in my household, my work schedule, my employer, my child care needs, my child care provider and my income and resources.

I understand that by withdrawing my request for TA, or asking that my TA case be closed, that I will not receive TA at this time. However, if I change my mind, I may apply for TA in the future.

I understand that the 60-month time limit for TA does not apply to this child care guarantee.

I understand that I may be eligible for 12 months of transitional child care services when my income is no longer within TA limits.

I understand that withdrawing my request for TA, or asking that my TA case be closed, will not affect my application for or eligibility for Food Stamps or Medicaid.

I understand that if I have any questions about my eligibility for this child care guarantee, I can call
_____.
(insert district name and phone number above)

**Attachment B**

☐ I want to apply for child care assistance instead of both TA and child care assistance. I understand that if I change my mind in the future, I can still apply for TA at that time. If I also applied for Medicaid, I want my eligibility for Medicaid to be determined. I understand that if I do not already receive Food Stamps, my Food Stamp eligibility will be determined.

☐ I request that my TA case be closed **because I want child care instead of TA**. If I am receiving Medicaid, I want my Medicaid to continue.

☐ I request that my TA and Medicaid cases be closed. **I want child care assistance only.**

☐ I request that my Food Stamp case be closed. **I want child care assistance only.**

☐ I do **not** want child care instead of TA

_____ _____

Applicant's Signature Date

**Attachment C-Request for Amendment to Consolidated Services Plan (CSP)/Integrated County Plan (ICP)**

County:_____ Date: _____

I am requesting the following amendment to the county's CSP/ICP to allow payment to parents/caretakers who are:

☐ Satisfactorily participating in a two-year college program and working at least 17 ½ hours per week.

☐ Satisfactorily participating in a four-year college or university program (leading to a bachelor degree and that is reasonably expected to lead to an improvement in the parent/caretaker's earning capacity), and working at least 17 ½ hours per week.

List any additional conditions that apply to eligibility including but not limited to specific types of colleges, specific course of study, and definitions of "satisfactorily participating":

The above eligibility will be available from:

☐ NYS Child Care Block Grant

☐ Title XX

On what date do you want this change in eligibility to be effective? _____

On what dates was a Public Notice published in your local newspaper? _____
(You must attach a copy of the Public Notice, public comments and your responses to public comments)

_____
Commissioner's or Authorized Representative's Signature

_____
Date

**Attachment D-Applicant Certification of Information in TA Case Record**

I have read the attached information from my case record and by signing this form, I swear that the information is up-to-date and true.

I understand that my eligibility for the transitional child care guarantee is based on the information in my case record and any additional information I have given to my caseworker.

I agree to immediately report any changes that might affect my eligibility. This includes changes to where I am living, who is living in my household, my work schedule, my employer, my child care provider, my child care needs, and my family's income.

I understand that if I provide false information, withhold information or provide misleading information that affects my eligibility, I will be required to pay back any benefits for which I was not eligible and I may also be subject to criminal penalties.

**I understand that if I have any questions about this form or any form attached to it that I should**

**call _____.**

_____ _____

Applicant's Signature Date

**Attachment E**

LDSS 4782 (4/04)

# NOTICE OF INTENT TO DISCONTINUE CHILD CARE BENEFITS

| | | |
|---|---|---|
| NOTICE DATE: | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | |

| | | |
|---|---|---|
| GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP | | _____ |
| OR | Agency Conference | _____ |
| | Fair Hearing information and assistance | _____ |
| | Record Access | _____ |
| | Legal Assistance information | _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

This notice is to inform you that your case will be closed effective _____.

This agency intends to **stop** your payment of Child Care benefits effective _____.

The reason for this action is:

_____

_____

_____

The LAW(S) AND/OR REGULATION(S) that allows us to do this is:

_____

_____

_____

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**

CLIENT/FAIR HEARINGS COPY

LDSS 4782 (4//04) Reverse

**RIGHT TO A CONFERENCE:** You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice. This number is used only for asking for a conference. It is not the way you request a fair hearing. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you believe that the above action is wrong, you may request a State fair hearing by:

**Telephoning:** (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) 1 800-342-3334

**Writing:** Complete the information, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

**Faxing:** Complete the information, sign and fax to 518-473-6735.

**Emailing**: By signing on to the following website and following the instructions: http://www.otda.state.ny.us/oah/forms.asp

**Walk In Locations:** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY

☐**I want a fair hearing. The Agency's action is wrong because**: _____

_____

_____

Signature of Client: _____Date: _____

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

☐ **I understand I may be eligible for aid continuing.** My benefits have been reduced and I wish to have my benefits restored (aid continuing): If you request a fair hearing within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care allotments, lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued unchanged until the hearing decision is issued.**

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

**Attachment F** LDSS 4781 (Rev 4/04)
04-OCFS-ADM-01

**NOTICE OF INTENT TO CHANGE CHILD CARE BENEFITS** June 29, 2004

| NOTICE DATE: | EFFECTIVE DATE: | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____<br>OR Agency Conference _____<br>Fair Hearing information and assistance _____<br>Record Access _____<br>Legal Assistance information _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

This notice is to inform you that this agency intends to change your Child Care benefits. The changes are explained below.

Payment will be provided on behalf of the following:

| Child(ren): | For this Provider: | Change from $ to $:* | Effective: | Full Time or Part Time |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

***Payment may vary based on fluctuations in your approved activity and/or absences.***

You are responsible for a family share which must be paid to _____ in the amount of $_____ per week effective _____.

The reason for this action is:

_____
_____
_____
_____

The LAW(S) AND/OR REGULATION(S) that allows us to do this is: _____.

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**
CLIENT/FAIR HEARINGS COPY

LDSS 4781 (Rev. 4/04) Reverse

**RIGHT TO A CONFERENCE:** You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice. This number is used only for asking for a conference. It is not the way you request a fair hearing. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you believe that the above action is wrong, you may request a State fair hearing by:

**Telephoning:** (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) 1 800-342-3334

**Writing:** Complete the information, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

**Faxing:** Complete the information, sign and fax to 518-473-6735.

**Emailing**: By signing on to the following website and following the instructions: http://www.otda.state.ny.us/oah/forms.asp

**Walk In Locations:** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY

☐ **I want a fair hearing. The Agency's action is wrong because**: _____

_____

_____

Signature of Client: _____ Date: _____

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

☐ **I understand I may be eligible for aid continuing.** My benefits have been reduced and I wish to have my benefits restored (aid continuing): If you request a fair hearing within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care allotments, lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued unchanged until the hearing decision is issued.**

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

**Attachment G POTENTIAL ELIGIBILITY FOR TRANSITIONAL CHILD CARE BENEFITS**

Dear Parent:

If you are working, you may be able to get help paying for your child care. Read the rest of this letter to learn how!

WHAT IS TRANSITIONAL CHILD CARE?

The Transitional Child Care guarantee provides money to help working families pay for their child care costs. This child care assistance helps families to afford child care for their children while they work. Families may be eligible to receive Transitional Child Care Assistance for up to 12 months after they become ineligible for Temporary Assistance (TA).

WHO CAN GET TRANSITIONAL CHILD CARE?

- Working families who were receiving Temporary Assistance (TA), but became ineligible when their income increased.

- Working families who were receiving guaranteed child care instead of TA can receive Transitional Child Care once their income makes them ineligible for TA.

Other requirements are:

- your family's income cannot exceed certain limits;
- you must have been on TA for three out of the last six months, or have received child care assistance instead of TA for three out of the last six months;
- your child must be under the age of 13 and need day care so you can go to work; and
- you receive court-ordered child support, are actively pursuing support through the Child Support Enforcement Program, are trying to get court-ordered support through other means, or have been determined to have good cause not to actively seek child support.

HOW DO YOU GET TRANSITIONAL CHILD CARE?

Your caseworker should determine your eligibility for Transitional Child Care before your TA or guaranteed child care case is closed. The caseworker cannot ask or require you to complete a new application. However, they may need some additional information from you in order to find out if you are eligible. Ask your caseworker if you are eligible for Transitional Child Care.

HOW MUCH WILL IT COST?

Each family pays a portion of the child care cost each month. The amount you pay depends on the size of your family and your income. If your provider charges above market rate you will also have to pay the difference between what your provider charges and market rate.

WHO CAN CARE FOR YOUR CHILD?

You have the right to choose any child care that is legal. This includes:

- licensed or registered day care centers;
- licensed group family day care;
- registered family day care homes;
- registered school-age child care programs;
- friends, neighbors and relatives, who are enrolled with the local Department Of Social Services;
- caregivers of legally exempt group child care such as summer day camps that are enrolled with the local Department of Social Services.

Your local Department Of Social Services or your Child Care Resource and Referral agency can help you find child care.

WHAT ARE YOUR RESPONSIBILITIES UNDER TRANSITIONAL CHILD CARE?

In order to continue to receive benefits you must:

- pay your family share on time;
- notify your caseworker immediately of any changes that might affect your eligibility for child care. Some of these changes include: where you are living, who is living in your household, your work schedule, your employer, your child care needs, your child care provider and your family's income;
- complete and return to your caseworker any information he or she needs to determine your continued eligibility;
- actively pursue child support, unless you have been determined to have good cause not to actively pursue support; and
- continue to use a legal child care provider.

WHEN WILL YOU STOP RECEIVING TRANSITIONAL CHILD CARE?

Your Transitional Child Care will be stopped:

- if you are not fulfilling your responsibilities listed above, or:
- at the end of the twelve-month eligibility period; or
- if you quit your job without good cause; or
- when child care is no longer needed to allow you to work; or
- if your income exceeds the maximum allowed for your family size; or
- when your child reaches the age of 13. However, if your child has special needs or is under court supervision, your worker can tell you if there may be other child care programs that can help you.

# 14-ADM-04
# *Employment and Resource Exemption Changes Authorized by Chapter 58 of the Laws of 2014*

The purpose of this Administrative Directive (ADM) is to inform districts of changes to the sections 131-n, 335-a, 336, and 336-a of SSL as authorized by Chapter 58 of the Laws of 2014 and to provide information to assist districts to identify adjustments in local procedures that may be necessary to implement these changes. Changes include amendments to expand temporary assistance work activities to include up to four years of post-secondary education (or its part time equivalent).

This page left intentionally blank.

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

Andrew M. Cuomo
Governor

Kristin M. Proud
Commissioner

# Administrative Directive

## Section 1

| | |
|---|---|
| **Transmittal:** | 14-ADM-04 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Center for Employment and Economic Supports |
| **Date:** | August 25, 2014 |
| **Subject:** | Employment and Resource Exemption Changes authorized by Chapter 58 of the Laws of 2014 |
| **Suggested Distribution:** | Employment Coordinators<br>Temporary Assistance Directors<br>Supplemental Nutrition Assistance Program Directors<br>Staff Development Coordinators |
| **Contact Person(s):** | OTDA Employment Services Advisor or Employment and Advancement Services Bureau at (518) 486-6106 |
| **Attachments:** | |
| **Attachment Available On – Line:** | ☐ |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 08-ADM-07<br>07-ADM-08<br>03-ADM-10 | | 352.23(b)(4)<br>385.6<br>385.7<br>385.9 | 131-n<br>335-a<br>336<br>336-a | Temporary Assistance Source Book and SNAP Employment Policy Manual-<br>Section 385.6<br>Section 385.7<br>Section 385.9 | Chapter 58 of Laws of 2014 |

## Section 2

### I. Summary

This ADM is to inform social services districts (districts) of the following changes resulting from amendments to Social Services Law (SSL) made by Chapter 58 of the Laws of 2014:

- Section 335-a was amended to require that when a district is developing an employment plan for a temporary assistance recipient residing in a household without dependent children to consider the individual's preferences to the extent possible and to the extent also consistent with the individual's assessment and the district's need to meet federal and State work participation requirements. If the individual's preferences cannot be accommodated, the district must specify the reason in the individual's employment plan. This provision is consistent with current employment plan requirements for households with children.

- Section 336-a was amended to expand temporary assistance work activities to include up to four years of post-secondary education (or its part time equivalent). Any enrollment in post-secondary education beyond a twelve month (lifetime) period must be combined with no less than twenty hours of participation averaged weekly in paid employment, other core work activities or community service when paid employment is not available. Section 336 was also amended to include participation in up to four years of post-secondary education in the definitions of vocational education and job skills training to the extent such activities are consistent with federal and State requirements.

- Section 131-n was amended to expand the existing resource exemption of up to $1,400 for funds in a separate bank account established by a recipient of temporary assistance for the purpose of paying tuition, to include tuition at an accredited four year post-secondary educational institution.

## II. Purpose

The purpose of this Administrative Directive (ADM) is to inform districts of changes to the sections 131-n, 335-a, 336, and 336-a of SSL as authorized by Chapter 58 of the Laws of 2014 and to provide information to assist districts to identify adjustments in local procedures that may be necessary to implement these changes.

## III. Background

Districts are required to complete an employment assessment within designated timeframes and to develop an employment plan consistent with 18 NYCRR §385.6 for individuals in receipt of temporary assistance residing in households with dependent children; and, consistent with 18 NYCRR §385.7 for non-exempt temporary assistance recipients residing in households without dependent children. Districts have also been required when developing an employment plan for a temporary assistance recipient who is a member of a household with dependent children to consider an individual's preferences, to the extent possible and also consistent with the individual's assessment and the district's need to meet federal and State work participation requirements and if the district is unable to accommodate such preferences to record the reason in the employment plan. The recent change to Section 335-a of the SSL establishes the same employment plan requirements for an individual in a household without dependent children.

Districts continue to be able to enroll non-exempt individuals in work activities prior to completing an assessment within the required timeframes. In all instances, the activities to which an individual is assigned must be those that the individual is capable of participating in, contribute to the individual's efforts to obtain employment or enhance current employment efforts, and are limited to no more than 40 hours per week. Work activities may include paid employment or participation in work preparation activities such as work experience, job search,

job readiness, vocational education, jobs skills training and education activities directly related to employment. Educational activities had previously been limited to participating in no more than two-year post-secondary programs. Chapter 58 of the Laws of 2014 amends the definition of educational activities to include participation in up to four years of post-secondary education. Participation in up to four years of post-secondary education may be reported as vocational education for a maximum of 12 months in the individual's lifetime or as jobs skills training. Districts are reminded that to count toward federal work participation requirements as job skills training, the education program must directly relate to a specific occupation or job. Participation in job skills training will count toward the participation rate only if the individual also participates in a core work activity (including but not limited to: unsubsidized employment, work experience, or community service) for at least 20 hours averaged per week during the month. Post-secondary education/training activities must be provided by a community college, licensed trade school, registered business school or a two-year or four-year college.

Hours of participation must continue to meet the definition of the particular work activity as reported and must be reported separately for each work activity.

Districts also continue to retain the authority to approve an individual's participation in homework/study time which is required by an educational activity as reportable toward the individual's weekly work participation requirements. The total number of hours of supervised and unsupervised homework/study time may not exceed the documented number of hours of study time expected by the education program. Additionally, the hours of unsupervised homework/study time required by an educational program is limited to no more than one hour for each hour of class time. Districts should refer to 08-ADM-07 for households with dependent children and 07-ADM-08 for households without dependent children for additional information pertaining to documenting and reporting hours of engagement, including homework/study time.

Districts have been able to exclude, as an available resource for purposes of determining a household's eligibility for ongoing temporary assistance, a separate account that an individual has established while receiving temporary assistance to pay tuition at a two-year accredited post-secondary institution, provided the funds are not used for any other purpose. This provision has been modified to include four year accredited post-secondary educational institutions.

## IV. Program Implications

Employment Plan Requirements

The change to Section 335-a of the SSL requires districts to consider the preferences of the participant to the extent possible and consistent with the individual's assessment and the need of the district to meet federal and State work participation requirements when developing an employment plan for an individual in a household without dependent children. If the individual's preferences cannot be accommodated, the district must specify the reason(s) in the individual's employment plan. Consideration of an individual's preferences when making work activity assignments is expected to improve program attendance and employment outcomes.

Educational Activities for Temporary assistance and/or SNAP Applicants and Recipients

Social Services Law has been amended to permit up to four years of post-secondary education as a public assistance work activity. Districts are encouraged to accommodate individuals' efforts to attain post-secondary education as an avenue to employment and higher wages. Districts that elect to approve enrollments in four-year college programs as a work activity will

need to submit an amendment to their 2014-15 biennial Temporary Assistance and Supplemental Nutrition Assistance Program (SNAP) Employment Plan (Plan). The Plan amendment must describe the district's procedures for determining whether or not an individual is approved/assigned to participate in jobs skills training or vocational educational activities including up to four years of post-secondary education, consistent with the guidance outlined in this ADM. As part of the local plan modification, OTDA will also modify the definition of vocational education and jobs skills training to include participation in up to four years of post-secondary education.

District approval policies for enrollment in educational programs may consider factors such as, but not limited to, the individual's ability to successfully complete the program (based on academic testing); the extent to which the individual is able to secure employment without the additional education or training; and the extent to which the education or training will prepare the individual for jobs in an occupation with favorable job opening projections. Consistent with social services law post-secondary education must be necessary to the attainment of the participant's employment goal as set forth in the individual's employment plan and such goal must relate directly to obtaining useful employment in a recognized occupation.

Social Services Law requires that districts' continued approval of enrollments in an educational activity must ensure that the participant maintain satisfactory progress (having a cumulative "C" average, or its equivalent), as determined by the academic institution. Maintaining satisfactory progress for educational activities that do not use a grade system, such as adult basic education or English as a Second Language may be based on the training provider's determination that the individual is making progress as demonstrated by testing level progression. The requirement to maintain satisfactory progress in an educational activity may be waived if it is determined by the institution and the district that the client's inability to maintain satisfactory progress is due to hardship caused by the death of a relative, personal injury or illness, or other extenuating circumstances. Districts may, but are not required to, consider an educational institution's current enrollment of a student as an indication that the institution has determined the individual to meet satisfactory progress standards. A district may also require a student to document his or her attendance and academic performance and may disapprove or discontinue approval of the work assignment if the student fails to provide documentation of attendance and/or performance without good cause.

When making an assignment to an educational activity as a work activity, districts should determine the appropriateness of such assignment based on the individual's employment assessment, the district's need to comply with federal and State work participation rate requirements and other factors taken into consideration when developing the individual's employment plan. Districts should continue to determine when, and to what extent, homework/study time is approved as part of an educational activity based on district policy, federal limits on the reporting of homework/study time, the individual's circumstances and the district's need to meet federal and State participant rate requirements. Districts are encouraged to consider some hours of homework, consistent with federal and State requirements, as satisfying a work activity assignment in an effort to promote academic progress.

The district's procedure for approving educational activities must also ensure that any enrollment in post-secondary education beyond a twelve month (lifetime) period is only approved when it is combined with a minimum of 20 hours averaged weekly of participation in paid employment or other core work activities, such as work experience or a community service assignment. The twelve month period is based on the twelve months in an individual's lifetime that may be reported as vocational education. Beyond the 12 month lifetime limit, an individual

must be concurrently employed or participating in another core work activity for an average of 20 hours per week during the month for the enrollment in post-secondary education to be approved by the district. Districts are encouraged to help individuals obtain employment in their field of study to support both academic and employment outcomes.

Participation in educational activities that prepare individuals for employment consistent with the guidelines in this directive that require up to four years of post-secondary education may be assigned and approved by the district and reported as an allowable SNAP work activity. A student who is assigned by the social services district to participate in educational or training at an institution of higher education at least on a half-time basis would be exempt from assignment to other SNAP work activities. A student enrolled at least half-time in an institution of higher education must meet the student eligibility criteria in 18 NYCRR §387.1.

Temporary Assistance and SNAP applicants and recipients enrolled in work activities assigned by and approved by the district must be provided support services such as transportation and child care necessary to enable the individual to participate in the assigned activity. The requirement to provide necessary support services also applies to individuals approved by the district to attend a four-year post-secondary education program as a public assistance and/or SNAP work activity.

Post-Secondary Education Related Temporary Assistance (TA) Resource Exemption

SSL Section 131-n was amended to expand the existing resource exemption of up to $1,400 for funds in a separate bank account established by a recipient of TA for the purpose of paying tuition at a two year accredited post-secondary education institution, to include tuition at an accredited four year post-secondary educational institution.

The exemption only applies to TA recipients. It does not apply to applicants, including former recipients, with previously established accounts who subsequently reapply for TA.

Districts must monitor the balance of this account(s) at least at recertification, to ensure the funds are not used for any other reason than paying tuition. Once it has been determined the funds have been used for purposes other than paying tuition, the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit.

If a two or four year college tuition account is established with lump sum income, and the funds are used for any reason other than paying tuition the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit and the prior lump sum ineligibility period is reinstated. Any resulting overpayment is calculated back to the effective date of the initial lump sum.

If a two or four year college tuition account is established by any means other than lump sum income, and the funds are used for any reason other than paying tuition the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit. Any resulting overpayment is calculated back to the first of the month in which the funds were inappropriately withdrawn.

Documentation of these accounts must be obtained by the district directly from the financial institution and maintained in the TA case record.

## V. Required Action

Employment Plan Requirements

Districts must modify local procedures to ensure that all employment plans completed for temporary assistance recipients take the individual's preferences into consideration to the extent possible and to the extent consistent with the individual's assessment and the need of the district to meet federal and State work participation requirements. If such preferences cannot be accommodated, the district must specify the reason in the individual's employment plan. Districts must ensure that employment assessments and employment plans continue to be completed consistent with 18 NYCRR §385.6 for temporary assistance recipients residing in households with dependent children and 18 NYCRR §385.7 for nonexempt temporary assistance recipients residing in households without dependent children.

Employment Plan Amendments to include Enrollments in Up to Four Years of Post-Secondary Education

Districts that elect to approve enrollments in four-year college programs must submit to OTDA an amendment to the district's 2014-2015 Temporary Assistance and SNAP Employment Plan (Section 3.6) which describes the district's procedure for implementing the change to the post-secondary education provision. 2014-15 plan amendments should be submitted to the district's Employment Services Advisor with a copy via e-mail to BarbaraC.Guinn@otda.ny.gov or by mail to:

Barbara C. Guinn
Director
Employment and Advancement Services
40 North Pearl Street, 11th Floor
Albany, New York 12243

All districts must implement procedures no later than October 1, 2014 to require that any assignment to post-secondary education beyond a twelve-month period be combined with no less than twenty hours of participation averaged weekly in paid employment or other core work activities or community service when paid employment is not available and that local procedures ensure that individuals assigned to educational activities are making satisfactory progress consistent with the guidance provided in this ADM. Districts should refer to 08-ADM-07 for households with dependent children and 07-ADM-08 for households without dependent children for a list of core work activities. Districts must also continue to ensure that reported hours of participation are consistent with federal and State requirements, including, but not limited to confirming that the work activity meets the definition of the work activity to be reported and that the hours of participation are reported separately for each respective work activity.

Change in Resource Exclusion Related to Post-Secondary Education

Districts must modify local worker instructions pertaining to resource exclusions to include tuition accounts for four-year accredited post-secondary educational institutions. Districts must exclude an amount of up to $1,400 in a separate bank account established by an individual while receiving temporary assistance for the purpose of paying tuition to at a two-year or four-

year accredited post-secondary educational institution, provided the funds are not used for any other purpose. This resource exemption standard is effective March 31, 2014.

## VI. Systems Implications

Language in the Client Notice System (CNS) will be modified consistent with the statutory change to SSL Section 131-n.

## VII. Effective Date

The changes in policy outlined in this directive regarding employment plan requirements for individuals in households without dependent children, the authority for districts to approve up to four years of post-secondary education, and the changes to the resource exclusion for bank accounts established to cover the costs of post-secondary education to include four-year institutions are effective March 31, 2014. Districts that elect to approve enrollments in post-secondary education to include four-year institutions must submit to OTDA an amendment to the local Employment Plan to reflect this policy.

---

**Issued By**
**Name:** Phyllis Morris
**Title:** Deputy Commissioner
**Division/Office**: Center for Employment and Economic Supports

# Memorandum
# *Repeal of Child Support Requirement for Child Care Assistance*

The purpose of the OCFS local district commissioner's memorandum dated July 30, 2009 is to advise social services districts that Social Service Law has been amended to repeal the requirement that the child's caretaker must demonstrate that he or she is actively pursuing child support.

This page intentionally left blank.

New York State
Office of
Children & Family
Services

# MEMORANDUM

**TO:** **Local District Commissioners**

**FROM:** **Janice M. Molnar, Deputy Commissioner**
**Division of Child Care Services**

**DATE:** **July 30, 2009**

**SUBJECT:** **Repeal of Child Support Requirement for Child Care Assistance**

---

The purpose of this memo is to inform districts of an amendment to Social Service Law, Section 410-w. The amendment repeals the requirement that a child's caretaker, in a situation in which there is a non-custodial parent, must demonstrate that he or she is actively pursuing child support, or show good cause why he or she should be exempted from this requirement, in order for the family to be eligible for a child care subsidy.

The amendment to Section 410-w of the Social Service Law was signed into law on July 24, 2009 and became effective immediately.

Social services districts can no longer require applicants and recipients to pursue child support as a condition of eligibility for child care subsidies. Social services districts should continue to work with child care providers and families to promote the benefits of child support.

The Office of Children and Family Services will be issuing a Local Commissioners Memorandum, which will provide the districts with additional information.

# 14-OCFS-INF-02
# *2014 Income Standards for the Child and Family Services Plan*

The purpose of 14-OCFS-INF-02*, 2014 Income Standards for the Child and Family Services Plan* is to transmit the 2014 income standards to be used in determining eligibility for services. These income standards are effective June 1, 2014 through May 31, 2015.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 14-OCFS-INF-02 |
| **To:** | Commissioners of Social Services |
| **Issuing Division/Office:** | Strategic Planning and Policy Development |
| **Date:** | February 21, 2014 |
| **Subject:** | **2014 Income Standards for the Child and Family Services Plan** |
| **Suggested Distribution:** | Directors of Social Services<br>WMS Supervisors<br>Advisory Council Members<br>Child Care Services<br>Adoption Services<br>Planning Coordinators<br>Staff Development Coordinators |
| **Contact Person(s):** | Any questions concerning this release should be directed to the appropriate Division of Child Welfare and Community Services regional office:<br><br>Buffalo Regional Office - Dana Whitcomb (716) 847-3145<br>Dana.Whitcomb@ocfs.ny.gov<br>Rochester Regional Office – Karen Buck (585) 238-8201<br>Karen.Buck@ocfs.ny.gov<br>Syracuse Regional Office – Sara Simon (315) 423-1200<br>Sara.Simon@ocfs.ny.gov<br>Albany Regional Office - Kerri Barber (518) 486-7078<br>Kerri.Barber@ocfs.ny.gov<br>Spring Valley Regional Office – Yolanda Desarme (845) 708-2498<br>Yolanda.Desarme@ocfs.ny.gov<br>New York City Regional Office – Raymond Toomer (212) 383-1788<br>Raymond.Toomer@ocfs.ny.gov<br>Native American Services – Kim Thomas (716) 847-3123<br>Kim.Thomas@ocfs.ny.gov |
| **Attachments:** | No |
| **Attachment Available Online:** | N/A |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 13-OCFS-INF-03 | | 18 NYCRR 404.5(b) | 78 F R 5182<br>42 U.S.C. 9902(2) | | |

## I. Purpose

The purpose of this Informational Letter is to transmit the 2014 income standards to be used in determining eligibility for services.

## II. Background

State income standards are established using poverty guidelines that are updated periodically in the Federal Register [78 F R 5182] by the U.S. Department of Health and Human Services under authority of 42 U.S.C. §9902(2). Local district eligibility levels are recorded in Appendix F of the local district Child and Family Services Plan. This information is used to update each local district's Welfare Management System services matrix.

## III. Program Implications

The following are the income standards that are to be used, effective June 1, 2014, to determine eligibility for services between June 1, 2014, and May 31, 2015.

| Family Size | Income Standards |
|---|---|
| 1 | $11,670 |
| 2 | 15,730 |
| 3 | 19,790 |
| 4 | 23,850 |
| 5 | 27,910 |
| 6 | 31,970 |
| 7 | 36,030 |
| 8 | 40,090 |

For families/households with more than 8 persons, add $4,060 for each additional person.

When determining eligibility for a service, apply the appropriate percentage for that service to the above income standards. For example, if a family of three is applying for a service that a social services district provides at 200% income level, multiply the income standard for a family of three by 200% ($19,790 x 2.00 = $39,580) to determine the income eligibility for that size family for that service.

*/s/ Jeanne Milstein*

**Issued By:**
Name: Jeanne Milstein
Title: Deputy Commissioner
Division/Office: Strategic Planning and Policy Development

# 14-OCFS-LCM-12
# *Excludable Income for Financial Eligibility for Child Care Subsidy*

The purpose of this Local Commissioners Memorandum is to advise social services districts (districts) about an amendment to Social Services Law (SSL) 410-w regarding the treatment of earned income of a child under the age of 18 when determining the eligibility of a household for a child care subsidy

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-12 |
| **To:** | Local District Commissioners<br>Director of Services<br>Child Care Unit Supervisors<br>Temporary Assistance Unit Supervisors |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | July 1, 2014 |
| **Subject:** | **Excludable Income for Financial Eligibility for Child Care Subsidy** |
| **Contact Person(s):** | Michael A. Miller (518) 408-3395<br>Michael.Miller@ocfs.ny.gov |
| **Attachments:** | No |
| **Attachment Available Online:** | N/A |

## I. Purpose

The purpose of this Local Commissioners Memorandum is to advise social services districts (districts) about an amendment to Social Services Law (SSL) 410-w regarding the treatment of earned income of a child under the age of 18 when determining the eligibility of a household for a child care subsidy.

## II. Background

18 New York Codes Rules and Regulations (NYCRR) § 404.5 (b)(6)(xiii) requires that social services districts exclude earnings of a child under 14 years of age, in determining financial eligibility for child care services. This regulation was not consistent with budgeting for public assistance programs, which disregards all of the

earned income of a child under the age of 18. Therefore, SSL 410-w was amended to add a new paragraph to SSL 410-w, disregarding earned income of a dependent child under the age 18. With this change in statue 18 NYCRR § 404.5(b)(6)(xiii) will be revised in accordance with this statue.

## III. Program Implications – Effective July 1, 2014

The amendment to SSL 410-w has added a new paragraph requiring the earned income of a dependent child under the age of 18, who is not legally responsible for the child or children for whom child care assistance is sought, to be disregarded when determining eligibility of a household for a child care subsidy.

Effective July 1, 2014, when determining financial eligibility of a new application for a child care subsidy, the earned income of a dependent child under the age of 18 who is not legally responsible for the child or children for whom child care assistance is sought must be disregarded.

Effective July 1, 2014, when re-determining financial eligibility for existing cases, the earned income of a dependent child under the age of 18 who is not legally responsible for the child or children for whom child care assistance is sought, must be disregarded at case recertification or when the next case action occurs.

## IV. System Implications

No change required.

## V. Notice Requirements

If a district determines that there is a change in benefits when excluding income of dependent children under the age of eighteen, the district must provide written notification of the change to the family by using OCFS-LDSS-4781 Notice of Intent to Change Child Care Benefits and Family Share Payments or an approved local equivalent.

*s/s Janice M. Molnar, Ph.D.*

**Issued By:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

# 01-OCFS-INF-08
# *Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee*

The purpose of 01-OCFS-INF-8, *Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee* is to provide guidelines for the provision of guaranteed child care services for the former CAP families who have reached five-year cash time limits and are found to be income ineligible for Safety Net Assistance non-cash benefits.

This page left intentionally blank.

George E. Pataki
*Governor*

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

John A. Johnson
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 01 OCFS INF-8 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Office of Children and Family Services - Division of Development and Prevention Services<br>Office of Temporary and Disability Assistance |
| **Date:** | December 4, 2001 |
| **Subject:** | Former Child Assistance Program (CAP) Families Eligible for Transitional Child Care Guarantee or/and Transitional Medicaid/CAP MA Guarantee |
| **Suggested Distribution:** | Services Directors<br>CAP Coordinators<br>Income Maintenance Directors<br>Child Care Unit Supervisors |
| **Contact Person(s):** | Transitional Child Care Issues: Anne Ball (518) 474-3775; CAP Policy Issues: Greg Nolan (518) 486-7657; Medicaid Issues: Local District Representative at 1-518-474-8216 or<br>New York City at 1-212-268-6855 |
| **Attachments:** | A: Client Letter Regarding Potential Eligibility for the Transitional Child Care Guarantee |
| **Attachment Available On – Line:** | ☒ |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 90 ADM-30 | | | SSL 410-a(1)(b) | | GIS 99 MA/17 |

## I. Purpose

The purpose of this release is to advise social services districts of the potential eligibility of former CAP families for the Transitional Child Care (TCC) guarantee and to remind districts of CAP Transitional Medicaid (TMA)/Guarantee provisions. Some CAP families will reach their five-year limit of cash assistance effective December 1, 2001. Many of these families have

income that exceeds the eligibility limits for the Safety Net Assistance program. Districts should review CAP cases at case closing to determine their potential eligibility for the TCC guarantee. Those families which otherwise meet the eligibility for the transitional guarantee, as described in the Program Implications section of this release, should be authorized for child care services as a TCC case.

## II. Background

The purpose of the TCC guarantee is to provide eligible families with a 12-month guarantee of child care to allow them a smoother transition from temporary assistance to self-sufficiency. This guarantee has been in place since 1990. In more recent years, the transitional guarantee was extended to families whose temporary assistance cases closed due to increases in child support income and to those who voluntarily closed their temporary assistance cases.

The TCC guarantee has been important in assisting families in the first year after their temporary assistance has ended. A child care guarantee for this first year after the temporary assistance case is closed is particularly critical in districts that are exceeding their child care allocation. In those districts, families whose temporary assistance cases have closed but who do not fall under the transitional guarantee could find themselves on a waiting list for child care subsidies. Since these families tend to be at the lower end of the income scale, their ability to pay the full cost of child care on their own is jeopardized. When a family is unable to pay for child care, child care arrangements often become destabilized. This in turn can lead to absences from the work place which can put the parents at risk of losing their jobs.

Family Assistance (including CAP) recipients whose cases are closed due to the five-year cash time limit, may be eligible for the Safety Net Assistance program. If eligible for the Safety Net Assistance program, families who need child care in order to work or participate in a work activity continue to have a child care guarantee. However, CAP families whose CAP case is closing due to the five-year cash time limit, may have earned income that makes them financially ineligible for the Safety Net Assistance program. The increased income disregards afforded to CAP families were intended to support the families' efforts to obtain child support and increase their earning capacity as they moved toward self-sufficiency. In order to provide the same guarantee afforded to other families as they leave Temporary Assistance, we are including former CAP families (who otherwise meet the eligibility requirements) as eligible for the TCC guarantee.

## III. Program Implications

CAP families, who meet the following eligibility criteria, are deemed to be eligible for the TCC guarantee. The family:

1. needs child care for an eligible child under thirteen years of age in order to enable a parent or caretaker relative to engage in work; **and**

2. has income of no more than 200 percent of the State income standard; **and**

3. has been in receipt of temporary assistance (including CAP) in three of the six months prior to the CAP case being closed, **and**

4. had their temporary assistance terminated as a result of :

   a. increased hours of, or income from, employment. (Former CAP recipients who are ineligible for Safety Net Assistance due to the income limits are deemed to meet this criteria at the time their five-year limit for Temporary Assistance expires regardless of whether or not their income increases at that time); or

   b. increased income from child support; or

   c. the family voluntarily ended assistance.

Social services districts must review all CAP cases prior to case closing to determine whether the family meets the above eligibility criteria for the TCC guarantee. CAP case information may be used to determine eligibility. A services authorization is required to open the child care case under the transitional guarantee. Districts have the option to authorize child care on the DSS 3209 for Medical Assistance only and Food Stamp Only cases. All other requirements under the New York State Child Care Block Grant, such as enrollment of legally-exempt providers, must be met prior to making payment.

A model client letter informing CAP recipients about potential eligibility for child care, is attached. Use of this letter is optional. Districts may add information to the letter to give families district-specific information on how and where to apply. **Please note that the client letter does not replace the client notice required in 01 OCFS LCM-8, Revised Client Notification Forms for Child Care Subsidies.**

**Medicaid Implications**

Health care coverage is important to families transferring from Temporary Assistance to self-sufficiency. Families who are ineligible for Medicaid as Low Income Families due to earned income receive Transitional Medicaid (TMA), if otherwise eligible. (See 90 ADM-30 for additional information on TMA.) Current and former CAP participants who complete the TMA extension and who are ineligible for Medicaid solely due to earned income are guaranteed Medicaid for up to 12 additional months. Medicaid may not be provided under this provision for any period that is more than 12 months after CAP participation ends. Any CAP or former CAP parents who are not eligible for Medicaid under TMA or the CAP/Medicaid guarantee may be eligible for health care coverage under Family Health Plus. Any individual not eligible under the guarantee provisions must be referred to Medicaid for an eligibility determination.

See GIS 99 MA/17 for further guidelines concerning the CAP Medicaid Guarantee Continuation.

**Issued By:**
Patricia A. Stevens
Deputy Commissioner
Office of Temporary & Disability Assistance
Division of Temporary Assistance

**Issued By:**
Larry G. Brown
Deputy Commissioner
Office of Children and Family Services
Division of Development & Prevention Services

Attachment A

**Client Letter Regarding Potential Eligibility for Transitional Child Care**

Dear :

Even though your CAP case is closing you may still be eligible for help in paying for child care. Your child care benefits **will not** automatically continue. In order to find out if you are eligible for child care assistance, you will need to do the following.

Tell your CAP worker that **you need help in paying** for child care. Your worker can tell you what information will be needed to determine if you will be eligible for child care.

**Ask your worker what you need to do** in order to receive help with your child care. In some counties, you may need to fill out a new application. Your worker can tell you where to apply. In other counties, you may not need to complete a new application but you will need to provide information in order for your child care to continue.

If you do **not** apply for child care, any child care benefits that you receive as a CAP recipient **will end** when your CAP case closes.

If you need help paying for child care after your CAP case closes, make sure you contact your worker right away for information on how to apply.

# Commissioner Letter
# *Sixty Day Notice Regarding Child Care Assistance*

The purpose of this Commissioner Letter is to inform Social Services Districts of the new provisions outlined in SSL §34-a, which took effect January 1, 2015, regarding the amount of notice a district must provide to the Office of Children and Family Services (OCFS) when the district plans to lower eligibility levels or increase its co-payment multiplier, with regard to child care assistance.

This page left intentionally blank.

**ANDREW M. CUOMO**
Governor

**ROBERTO VELEZ**
Acting Commissioner

January 28, 2015

Dear Commissioner:

On December 17, 2014, Governor Andrew M. Cuomo signed into law a new subdivision to Section 34-a of the Social Services Law, which took effect January 1, 2015, regarding the amount of notice a district must provide to the Office of Children and Family Services (OCFS) when the district plans to lower eligibility levels or increase its co-payment multiplier, with regard to child care assistance.

Social Services Law §34-a(9) requires that districts provide at least 60-day notice to OCFS if (1) a district proposes to amend its consolidated services plan, submits an annual plan update or takes any other action that would lower the financial eligibility level for child care assistance, so that families receiving subsidies would lose eligibility (this includes if a district implements its process for closing child cases set forth in its approved Child and Family Services Plan), or (2) a district proposes to amend its consolidated services plan or submit an annual plan update that increases the parental co-payment multiplier for child care assistance such that families receiving subsidies would pay an increased percentage of their income as a co-payment.

While OCFS encourages districts to notify families as soon as possible of a decision that will impact eligibility, the district must notify all affected families at least 10-days before the date upon which the proposed action is to become effective, as well as meet the notice requirements contained in 14-OCFS-LCM-01.

If you have any questions regarding the above information, please contact Rhonda Duffney at (518) 474-9454 or Rhonda.Duffney@ocfs.ny.gov. Thank you.

Sincerely,

Janice M. Molnar, Ph.D.
Deputy Commissioner

# 12-OCFS-LCM-03
# *Kinship Guardianship Assistance Program Payments—Excludable Income for Child Care Subsidy Program Eligibility*

The purpose of this Local Commissioners Memorandum (LCM) is to establish a formal policy regarding the calculation of countable income for families in receipt of Kinship Guardianship Assistance Program (KinGAP) payments and to notify social services districts of this policy.

In an effort to support relative guardians, as well as to support the broader efforts of permanency for children, social services districts are directed to exclude KinGAP payments when calculating family gross income and eligibility for the child care subsidy program.

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 12-OCFS-LCM-03 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | March 2, 2012 |
| **Subject:** | **Kinship Guardianship Assistance Program Payments - Excludable Income for Child Care Subsidy Program Eligibility** |
| **Contact Person(s):** | Homero Martinez (518) 408-3269<br>Homero.Martinez@ocfs.state.ny.us |
| **Attachments:** | No |
| **Attachment Available Online:** | n/a |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to establish a formal policy regarding the calculation of countable income for families in receipt of Kinship Guardianship Assistance Program (KinGAP) payments and to notify social services districts of this policy.

In an effort to support relative guardians, as well as to support the broader efforts of permanency for children, social services districts are directed to exclude KinGAP payments when calculating family gross income and eligibility for the child care subsidy program.

## II. Background

KinGAP is a program in New York State designed to provide monthly payments and other benefits to qualified relative guardians of children who have been discharged from foster care. KinGAP was signed into Law with Part F of Chapter 58 of the Laws of 2010 and went into effect April 1, 2011. Further information on KinGAP can be found in 18 NYCRR Part 436 and 11-OCFS-ADM-03, Kinship Guardianship Assistance Program (KinGAP).

Department regulations 18 NYCRR section 404.5(b)(5) and (6) list countable and excludable family gross income sources. Because the regulations do not address KinGAP payments in calculating family monthly gross income, the Office of Children and Family Services (OCFS) has decided to put forth this policy.

Similarly, in 2007, OCFS issued LCM 07-OCFS-LCM-05 that established the policy that both adoption subsidies and foster care payments are excludable income for child care subsidy program eligibility. This LCM adds KinGAP payments to the list of excludable income for the purposes of child care subsidy determinations.

## III. Program Implications

Effective no later than April 2, 2012, for all new child care subsidy applications, districts must exclude KinGAP payments from the determination of financial eligibility for the child care subsidy program and the calculation of the family share. For existing child care cases, this change will be effective no later than at the next case action or case recertification after April 2, 2012.

Given the previous absence of a formal policy, to the extent that this represents a change in local policy, social services districts' determinations will be considered appropriate up to the effective date of this LCM. Districts are not expected to review previous case denials that were based on the inclusion of KinGAP payments as part of family gross income.

Any questions regarding the information included in this LCM should be directed to Children and Family Services Specialist Homero Martinez, Division of Child Care Services, at (518) 408-3269 or e-mail at: Homero.Martinez@ocfs.state.ny.us.

*/s/ Janice M. Molnar, PhD*

**Issued By:**
Janice M. Molnar, PhD
Deputy Commissioner
Division of Child Care Services

# 07-OCFS-LCM-05
# *Adoption and Foster Care Subsidies: Excludable Income for Child Care Subsidy Program Eligibility*

The purpose of 07-OCFS-LCM-05, *Adoption and Foster Care Subsidies: Excludable Income for Child Care Subsidy Program Eligibility,* is to establish a formal policy regarding the calculation of countable income for families in receipt of adoption and foster care subsidies and to notify social services districts of this policy.

This page left intentionally blank.

**Eliot Spitzer**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 07-OCFS-LCM-05 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Development and Prevention Services |
| **Date:** | April 23, 2007 |
| **Subject:** | Adoption and Foster Care Subsidies - Excludable Income for Child Care Subsidy Program Eligibility |
| **Contact Person(s):** | Anne.Ball@ocfs.state.ny.us |
| **Attachments:** | none |
| **Attachment Available Online:** | n/a |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to establish a formal policy regarding the calculation of countable income for families in receipt of adoption and foster care subsidies and to notify social services districts of this policy.

In an effort to both support adoption and promote the broader efforts of permanency for children, social services districts are directed to exclude adoption subsidies when calculating family gross income and eligibility for the child care subsidy program. Similarly, in order to promote the recruitment and retention of foster care parents, foster care subsidies are also considered excludable family gross income when calculating income for the child care subsidy program.

## II. Background

Department regulations at 18 NYCRR section 404.5(b)(5) and (6) list countable and excludable family gross income sources. Because the regulations do not address adoption and foster care subsidies in calculating family monthly gross income, the Office of Children and Family Services has decided to put forth this policy.

## III. Program Implications

Effective no later than April 30, 2007, for all new cases, districts must exclude the amount of adoption and foster care subsidies from the determination of financial eligibility for the child care subsidy program and the calculation of the family share. For existing child care cases, this change will be effective no later than at the next case action or case recertification after April 30, 2007.

Given the previous absence of a formal policy, to the extent that this represents a change in local policy, districts' determinations will be considered appropriate up to the effective date of this LCM. Districts are not expected to review previous case denials that were based on the inclusion of either or both adoption and foster care subsidies as part of family gross income.

Any questions regarding the information included in this LCM should be directed to Children and Family Services Specialist Anne Ball, Bureau of Early Childhood Services at (518) 474-3775 or Anne.Ball@ocfs.state.ny.us.

/s/ *Jane G. Lynch*

Jane G. Lynch
Deputy Commissioner
Division of Development and Prevention Services

# 05-INF-09
# *New Statewide "Common Application" LDSS-2921 Statewide;*
# *New Statewide "How to Complete" Publication, PUB-1301 Statewide (Rev. 1/05)*

The purpose of 05-INF-09*, New Statewide "Common Application", LDSS 2921 State* (Rev. 1/05*) and New Statewide "How To Complete" publication,* PUB-1301 *Statewide (*Rev.1/05*),* is to combine both Upstate and New York City versions into one Statewide "Common Application" and associated "How to Complete" publication. In addition, many enhancements were made to improve the forms' functionality.

This page left intentionally blank.

George E. Pataki
*Governor*

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Robert Doar
*Commissioner*

# Informational Letter

**Section 1**

| | |
|---|---|
| **Transmittal:** | 05-INF-09 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Program Support & Quality Improvement |
| **Date:** | March 28, 2005 |
| **Subject:** | New Statewide "Common Application", LDSS - 2921 Statewide (Rev. 1/05)<br>New Statewide "How to Complete" publication, PUB - 1301 Statewide (Rev. 1/05). |
| **Suggested Distribution:** | Temporary Assistance<br>Food Stamp Directors<br>Medical Assistance Directors<br>Directors of Services<br>CAP Coordinators<br>Staff Development Coordinators<br>Chid Support Enforcement Coordinators<br>Employment Coordinators<br>Forms Coordinators<br>WMS Coordinators |
| **Contact Person(s):** | Jackie Brace, Document Services (518) 474-9522 |
| **Attachments:** | Attachment 1 - LDSS-2921 Statewide (Rev. 1/05)<br>Attachment 2 - PUB-1301 Statewide (Rev. 1/05) |
| **Attachment Available On – Line:** | ☒ |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 85 ADM-38<br>89 INF-53<br>95 INF-8<br>95 INF-29<br>01 INF-22<br>02 INF-20<br>03 INF 39 | 95 INF-29<br>95 INF-8 | 350.4<br>351.21<br>360.1<br>369.1<br>369.4<br>387.6<br>387.17<br>404.1 | | PSAB<br>III-E,<br>III-H,<br>V-B-1, V-C<br>FSSB<br>IV-E-2, IV-F<br>IV-E-5, VI-A<br>MARG<br>p. 364 | 95-ADM-1 |

**Section 2**

## I. Purpose

This INF introduces revisions made to the following mandated forms:

LDSS-2921 Statewide Common Application Form
PUB-1301 Statewide "How to Complete" Publication

This INF releases the (Rev. 1/05) versions of this form and publication.

## II. Background

This release includes specific changes that are outlined in the following section, which are **bolded**.

## III. Form and Publication Implications:

**GENERAL** – The Revision Date was changed to 1/05 on all pages.

**TEMPORARY ASSISTANCE CHANGES:**

**PAGE 1**

1. **Lifeline Indicator – shaded area**

   A one-character field has been **added** after the "Case Name" field in the shaded worker data entry section at the top of the page. This field should be labeled **"lifeline"** and will be driven by the answer given to the question that will be asked on **Page 16.**

2. **Consent To Withdraw Statement – shaded area**

   The "**Consent to Withdraw**" section was **removed** from the shaded worker data entry section at the top of Page 1, expanded and placed on **Page 13.**

3. **Self- Sufficiency Statement - shaded area**

   The second sentence in the first paragraph was **changed** to include program names. It now reads:

   You, in turn, must be committed to becoming self-sufficient and must be responsible for participating in activities

   to reach self-sufficiency including work activities for Temporary Assistance and Food Stamp Benefits where required.

4. **Check Each Program – shaded area**

   A "Child Care In Lieu Of TA" box was **added.**

   The box reads as follows:

- □ **Child Care In Lieu Of TA**

5. **Check Each Program area – shaded area**

   An "Emergency Payment Only (EMRG)" box was **added** to allow the applicant to indicate that they are applying only for a one-time emergency need.

   The box reads as follows:

   - □ **Emergency Payment Only**

(The worker should detail the determination/action regarding the emergency assistance request on page 13.)

**PAGE 2**

1. **EMRG column - Section 6**

An additional choice column, titled "**EMRG**", was **added** to the right of the "S" column where the applicant can check the type(s) of Assistance each person is applying for. "EMRG" is an abbreviation for the "Emergency Payment Only".

2. **Alien Information Section –** All "Alien" references in this section were **changed** to **"Immigration".**

**PAGE 3**

1. **Race/Ethnic Affiliation Codes - Section 6**

2. The Ethnic Code definition, **H** Hispanic or Latino (a)" was **changed** to "**H** Hispanic or Latino".

3. **Race/Ethnic Affiliation Codes - Section 6**

   An additional Race/Ethnic code definition and new column for this definition has been **added**. The new definition is "**U Unknown (MA ONLY)**" and the new column will be titled "**U**" for unknown and was **added** to the right of the "**W**" column. This new column allows for 8 entries.

   **Documentation Cue section –** The "Alien Status" reference was **changed** to "**Immigration Status".**

**PAGE 4**

**Citizenship/Immigration Status Information – Sections 8 and 9**

1. All "Alien" references were **changed** to "Immigrant".

2. The reference to the "Immigration and Naturalization Service (INS)" was **changed** to **"United States Citizenship and Immigration Services (USCIS)".**

3. The example, after the sentence about an authorized representative signing the Certification, was **changed** to read:

   Example: A parent without satisfactory immigrant status may sign for his/her child who has satisfactory immigrant status.

4. **EMRG column -** An additional choice column, titled **"EMRG",** was **added** to the right of the "S" column in section 9 where the applicant certifies that they are a U.S. Citizen or national, or an alien with satisfactory immigration and the where they check the type(s) of Assistance each person is applying for. **"EMRG"** is an **abbreviation** for the **"Emergency Payment Only".**

5. The "Immigration and Naturalization Service (INS)" reference was **changed** to **"United States Citizenship and Immigration Services (USCIS)".**

**PAGE 6**

**Step- Parent/Alien Sponsor Information – Section 15**

1. The title for the "Step-Parent/Alien Sponsor Information" section was **changed** to **"Step-Parent/Immigrant Sponsor Information"**
2. The "alien" reference in the 2nd question was **changed** to **"immigrant".**

**PAGE 7**

**Employment Information – Section 16**

1. The sentence that asks about health insurance was **changed** to read:

   Does anyone **else** have health insurance with their employer?

3. A new question was **added** that reads:

   Is health insurance available through your employer?

**PAGE 8**

**Education/Training - Section 17**

A new question was **added** that reads:

Is under 16 years of age is attending school

**PAGE 9**

**Documentation Cues – shaded area**

Car/Vehicle Registration" was changed to read

Car/Vehicle Registration (older models)

**PAGE 10**

**Medical Information - Section 19**

1. A new 2nd question was **added** that asks:

   Is on Medicaid with a Spendown

2. A new 4th question was **added** that reads:

Has health insurance available through your employer

**PAGE 11**

**Shelter – Section 20**

1. The telephone related information on this page was **eliminated** because the new language in the "SUA statement" on page 16, now addresses Food Stamp Benefits Recipients' eligibility for a phone allowance.

2. An additional column was **added** in the shaded gray "Monthly Expenses" chart. That column should appear directly after "Name of Dealer" and be titled "Account Number". The addition of this column will help in identifying and recording account numbers for the purpose of vendor payments and payment accuracy.

**PAGE 13**

1. **Consent To Withdraw Statement – shaded area**

   The **"Consent To Withdraw"** section, originally in the shaded area on page 1, was **moved** to the shaded area on this page. The original section only offered the applicant/recipient the choice of withdrawing their application for all the assistance programs. This question has been expanded to offer the applicant/recipient the opportunity to indicate which program or programs they do not wish to apply for.

   The revised **"Consent To Withdraw"** statement will continues to be located in a shaded area and was **revised** to read:

   I consent to withdraw my application for:

   □ Temporary Assistance □ Food Stamp Benefits □ Medical Assistance □ Services
   □ One-Time/Emergency Payment Only

   I understand that I may reapply at any time.

   Signature **x** _____ Date: _____

2. **Emergency Cash Assistance – shaded area**

3. An "**Emergency Cash Assistance**" area has been **added** to the shaded worker area to document the action/determination criteria.

**PAGES 14, 15 and 16**

1. **GENERAL**– The Notices Section was **revised** and reformatted into 2 separate sections:

   - Notices
   - Assignments, Authorizations & Consents

2. **CHANGES - section 26 on Page 15**

The **Changes** section was **changed** to read:
**CHANGES -** I agree to inform the agency **promptly** of any change in my needs, income, property, living arrangements or address to the best of my knowledge or belief.

If I am applying for child care assistance, I agree to inform the agency **immediately** of any change in family income, who lives in my house, employment, child care arrangements or other changes which may affect my continued eligibility or amount of my benefit.

3. **SUA STATEMENT – Section 26 on Page 16**

   An additional statement regarding a telephone allowance was **added** to the "SUA" section. The statement reads:

   I understand that FS recipients are eligible for a telephone allowance if they pay for a home phone, cell phone,

   phone calling card or coin-operated pay phone. If I do not have to pay for phone calls, I will let my worker know."

4. **LIFELINE – Section 26 on Page 16**

5. The Lifeline language was **revised** to read:

   **LIFELINE** - For applicants/recipients of temporary assistance and/or food stamp benefits: The Office of Temporary and Disability Assistance may or may not release your name and address to your telephone service provider. Your telephone service provider may or may not use this information to enroll you in their Lifeline Service for a discounted telephone rate.

   **If you do not want this information released, check this box □ .**

   You may contact your telephone service provider directly for enrollment in the discounted rate Lifeline Service."

   Medicaid-**only** applicants/recipients must contact their telephone service provider directly for enrollment in the discounted rate Lifeline Service."

**LAST PAGE**

**Voter Registration Form -** The most current version of the "Voter Registration" form has been attached to this version.

## MEDICAID CHANGES:

### Publication 1301

1. **Section 1** includes an explanation that Medical Assistance includes the Medicaid, Family Health Plus, Child Health Plus A, Medicaid Buy-In for Working People With Disabilities and Family Planning Benefit programs.

2. All references to “alien” were **changed** to “immigrant” or “immigration”. To clarify the status of Native Americans, “Native American” was **added** to these sections.

3. **In Section 9,** the name of the "Immigration Naturalization Service (INS)" has been **changed** to "United States Citizenship and Immigration Services (USCIS)".

4. **In Section 10,** "Non-Custodial Parent/Child Support/Medical Support Information", the following statement was **added**, "If you want to pursue medical support from a non-custodial parent, you must complete this section." This statement informs applicants who are not required to pursue medical support that they may choose to pursue medical support.

5. **In Section 18,** the instructions as to who is required to provide resource information have been **changed**. The words," or guardians", were **deleted.** Guardians are not legally responsible relatives.

6. **Section 19** was **reformatted** and the "Health Plan Selection" was **added** to provide information about the need to select a health plan for some people eligible for Medicaid and for all people eligible for Family Health Plus.

7. **In Section 28**, "Signatures", the following statement was **deleted**, "All persons 18 years of age or older must sign."

8. **In Section 28**, under the "Notice" regarding fair hearing rights, "Medicare Savings Program" was **added.**

### LDSS-2921

1. In **Sections 8 and 9**, all references to "alien" were **changed** to "immigrant" or "immigration". References to "alien number" were inadvertently **changed** to "immigrant number" and will be corrected in the next revision of the LDSS-2921. To clarify the status of Native Americans, "Native American" was **added** to these sections.

2. **In Section 9,** the name of the "Immigration Naturalization Service (INS)" has been **changed** to "United States Citizenship and Immigration Services (USCIS)".

3. **In Section 16**, the question, "Is health insurance available through your employer?", was added.

4. **Section 19** was reformatted and the "Health Plan Selection" was **added** to allow applicants to select a health plan for some people eligible for Medicaid and for all people eligible for Family Health Plus.

5. "I consent to withdraw my application..." was **moved** from the shaded area of page one to page thirteen. The applicant is now requested to check the box indicating for which program(s) the application is being withdrawn. A new box for "Medicare Savings Program" was **added**.

6. **In Section 23**, under "Reimbursement of Medical Expenses", the first sentence was **changed** to, "You have a right as part of your Medical Assistance application, or within two years from the date of your application, to request reimbursement of expenses you paid for covered medical care, services and supplies received during the three month period prior to the month of your application."

7. **In Section 26,** under "Release of Educational Records", "State and local department of social services" was **changed** to "State Department of Health and local department of social services".

**CHILD CARE CHANGES:**

**Changes to Common Application for child care**

**Section One** Child Care in lieu of TA has been **added** as program area that an applicant may select.

**Changes Page 15**

Notification of changes in child care arrangements has been **changed** from promptly to immediately.

**Pub 1301 changes for child care**

Applicants may select child care in lieu of Temporary Assistance if they are eligible for Temporary Assistance and decide all they need is child care.

## IV. Forms Implications

Districts were sent supplies of the LDSS-2921 Statewide (Rev. 1/05) and PUB-1301 Statewide (Rev 7/03) "How to Complete". Upon receipt of this version, any supply of the previously issued (Rev. 7/03) should be destroyed.

Any future requests for printed copies of the (Rev. 01/05) versions of the LDSS-2921 Statewide Common Application and the PUB-1301 Statewide "How to Complete" should be submitted on an OTDA-876 (Rev. 6/98): "Requests For Forms or Publications" form, and should be sent to:

Office of Temporary and Disability Assistance
Document Services
P.O. Box 1990
Albany, New York 12201

Questions concerning ordering forms should be directed to Document Services at 1-800-343-8859, Ext. 4-9522.

In addition, electronic PDF versions of the (Rev 01/05) LDSS-2921 Statewide and the PUB-1301 Statewide are posted on the OTDA Intranet Home Page, LDSS E-Forms link. http://sdssnet5/otda/ldss_eforms/default.htm

## V. Additional Information

Because these documents provide current program and policy information as well as mandated legal information, comments on the format and content of these forms and publications are always welcomed. Comments received will be pended and considered at the next printing of these forms.

Comments may be forwarded to:


Ms. Jacqueline Brace
Document Services
93 Broadway
Menands, New York 12204
Jacqueline.Brace@otda.state.ny.us


**Issued By**
**Name: Mary Meister**
**Title: Deputy Commissioner**
**Division/Office: Division of Program Support & Quality Improvement**

# 03-OCFS-INF-07
# *Application for Child Care Assistance*

The purpose of 03-OCFS-INF-07, *Application For Child Care Assistance,* is to inform social services districts that a local equivalent to the common application has been approved for use in a number of counties seeking to simplify access to the child care subsidy program.

This page left intentionally blank.

**George E. Pataki**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**John A. Johnson**
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 03 OCFS INF 07 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Development and Prevention Services |
| **Date:** | June 10, 2003 |
| **Subject:** | Application For Child Care Assistance |
| **Suggested Distribution:** | Child Care Unit Supervisors and Staff<br>Services Directors<br>WMS Coordinators |
| **Contact Person(s):** | Rhonda Finlayson (518) 402-6785<br>Rhonda.Finlayson@dfa.state.ny.us |
| **Attachments:** | A: Application For Child Care Assistance<br>B: How To Complete the Application For Child Care Assistance and Other Important Information |
| **Attachment Available On – Line:** | ☑ |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| | | | | | |

## I. Purpose

The purpose of this release is to inform social service districts that a local equivalent to the common application has been approved for use in a number of counties seeking to simplify access to the child care subsidy program.

Onondaga County developed an application to be used in situations where a family is applying only for child care assistance. This local child care application was approved by the Office of Children and Family Services (OCFS) and is currently in use.

OCFS has created a generic version of the Onondaga County application as a resource for other counties considering similar efforts to streamline the child care subsidy eligibility determination process. A copy of the application and instructions are appended for your information.

## II. Program Implications

Social services districts may elect to use a child care application for families that are only applying for child care assistance. Districts that choose to use the attached child care application must inform the Bureau of Early Childhood Services (BECS) prior to using the application. Districts that wish to develop a different local child care application must submit their proposed application to BECS for approval prior to its use. The child care application (Attachment A) and the guide to completing the application (Attachment B) are attached.

Districts using a child care only application must inform applicants that, if they need additional assistance or services they will be required to complete a different application. Additionally, districts must continue to inform all applicants of their rights and responsibilities by providing:

LDSS 4148A: "What You Should Know About Your Rights and Responsibilities"
LDSS 4148B: "What You Should Know About Social Services Programs"
LDSS 4148C: "What You Should Know If You Have an Emergency".

---

**Issued By**
Larry G. Brown
Deputy Commissioner
Division of Development and Prevention Services

Attachment A

# APPLICATION FOR CHILD CARE ASSISTANCE

Application Date _____ Worker: _____ Case Type: **40** District: Case Number: **S**_____ Service Trans. Type: ☐ New Op ☐ Reop ☐ Recert

Case Name _____ Disposition: Denied ☐ Reason Code☐☐ WD☐ ***Shaded Areas for Office Use Only***

Name _____ Telephone Number _____

Residence Address _____ City _____, NY Zip Code _____

Mailing Address (if different) _____ City_____, NY Zip Code _____

Former Address _____ Other phone numbers where you can be reached _____ Marital Status _____

**List everyone who lives with you even if they are not applying. List yourself first.**

| | First Name | M I | Last Name | Date of Birth | Social Security Number (SSN) *Optional* | Sex M or F | Does this child need child care? Yes | No | Relation-ship to you | Hispanic or Latino? Yes | No | Enter Y (Yes) or N (No) for each race* **I** | **A** | **B** | **P** | **W** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | | SELF | | | | | | | |
| 2 | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | |

***** Race/Ethnic Codes: **I** – Native American or Alaskan Native, **A** – Asian, **B** – Black or African American, **P** – Native Hawaiian or Pacific Islander, **W** - White

| Please list maiden or other names by which you or anyone in your household has been known | First Name | M I | Last Name |
|---|---|---|---|
| | | | |
| | | | |

Are you currently receiving or applying for Temporary Assistance through a different application? Yes ❒ No ❒

Are you currently receiving or applying for other Child Care funding? Yes ❒ No ❒ If yes, name of agency: _____

*You may use the back page if you need more room or there is other information that you think we might need*

**List names of everyone under 21 who are living in the household and write the absent parent's name and address.**

| Name of Person Under 21 | Absent Parent's Name and Address |
|---|---|
| | |
| | |
| | |
| | |

Do you need child care so you can work? Yes ❒ No ❒ If no, list reason child care is needed _____

Current Place of Employment: _____ Work Phone: _____

*(If self-employed, list the name of your company)*

Start Date of Job: _____Hours per Week:_____ Pay Rate:_____Gross Pay:_____

Is this a job with rotating shifts? Yes ❒ No ❒ Are you required to work overtime? Yes ❒ No ❒

List the Scheduled Days and Hours of Employment (e.g., Mon. through Fri. 8 a.m. – 4 p.m.): _____

_____

| **INCOME - ANSWER ALL QUESTIONS LISTED BELOW** | | | | | |
|---|---|---|---|---|---|
| Indicate if you or anyone applying with you receives money from: | Yes | No | Gross Amount | Period (e.g., week, month, etc) | Who Receives? |
| Employment/self-employment including overtime, commissions, training programs, tips | | | | | |
| Child Support Payments (received) | | | | | |
| Alimony/Support (received) | | | | | |
| Unemployment Insurance Benefits | | | | | |
| Social Security Benefits (including SSI) | | | | | |
| Disability Benefits (NYS, VA, Private) | | | | | |
| Rental/ Boarders/Lodgers Income (received) | | | | | |
| Other (please specify) | | | | | |
| *Office Use Only* | | | | | |

**READ THE IMPORTANT INFORMATION BELOW AND SIGN AT THE BOTTOM** 7

**PENALTIES –** Your application may be investigated. By signing this agreement you are consenting to cooperate in such investigation. Federal and State laws provide for penalties of fine, imprisonment or both if you do not tell the truth when you apply for Child Care Assistance, at any time when you are questioned about your eligibility, or if you cause someone else not to tell the truth regarding your application or continuing eligibility. Penalties also apply if you conceal or fail to disclose facts regarding your initial or continuing eligibility for Child Care Assistance; or if you conceal or fail to disclose facts that would affect the right of someone for whom you have applied to obtain or continue to receive Child Care Assistance and such Child Care Assistance must be used for the other person and not yourself. It is unlawful to obtain Child Care Assistance by concealing information or providing false information.

**CHANGES** – I agree to inform the agency **promptly** of any change in my needs, income, living arrangement or address to the best of my knowledge or belief.

I agree to inform the agency promptly of any change in child care arrangements, including where child care is provided, who is providing care, provider's fees, and hours for which child care is needed.

**CONSENT –** I understand that by signing this application form, I agree to any investigation made by the Department of Social Services to verify or confirm the information I have given or any other investigation made by them in connection with my request for Child Care Assistance. If additional information is requested, I will provide it.

**NON-DISCRIMINATION NOTICE – This application will be considered without regard to race, color, sex, disability, religious creed, national origin or political belief.**

**CERTIFICATION OF CITIZENSHIP/ALIEN STATUS FOR CHILD CARE ASSISTANCE - I hereby certify, under penalty of perjury, that all the children in need of Child Care Assistance** _____

*(list the names of all the child(ren) that are in need of child care assistance)*

**are United States (U.S.) citizens or nationals or persons with satisfactory immigration status.** I understand that this information about these children may be submitted to the Immigration and Naturalization Service (INS) for verification of immigration status, if applicable. I further understand that the use or disclosure of this information about these children is restricted to persons and organizations directly connected with the verification of immigration status and the administration or enforcement of provisions of the Child Care Assistance program.

Signature_____ Date_____

**CERTIFICATION**: **I swear and/or affirm under the penalties of perjury that all of the information I have given or will give to the local Department of Social Services relating to Child Care Assistance is correct.**

| APPLICANT/REPRESENTATIVE SIGNATURE | DATE SIGNED | HUSBAND/WIFE SIGNATURE | DATE SIGNED |
|---|---|---|---|
| | | | |

8

***Please return to the address below:***

***Phone:*** ***Fax:***

*Use this area for additional information:*

9

**I CONSENT TO WITHDRAW MY APPLICATION. I understand I may reapply at any time.**

**SIGNATURE** _____

10

DATE _____

Eligibility Determined by _____ Date _____

Eligibility Approved by _____ Date _____

Child Care Authorization Period: From _____ To_____

Comments:

(Rev 5/03)

Attachment B

# *HOW TO COMPLETE THE APPLICATION FOR CHILD CARE ASSISTANCE AND IMPORTANT INFORMATION*

## *Applying Only for Child Care Assistance*

If you are only applying for Child Care Assistance, you can use this shorter application. If you want to apply for other benefits such as Temporary Assistance, Food Stamps, Home Energy Assistance, Medicaid or other services, please ask for a different application. *This application can only be used to apply for Child Care Assistance.*

## *When You Are Applying For Child Care Assistance*

- You can file an application the same day you receive it. If you are eligible, benefits will be provided back to the date you filed your application.
- You can file your application in person or by mail.
- We will accept your application if, at a minimum, it contains your name, address, and a signature. However, the application must be completed for us to determine your eligibility.

## *How to Complete the Application For Child Care Assistance*

- Please PRINT clearly in blue or black ink.
- Do NOT print in the shaded areas.
- Be sure to complete each section.
- If you are applying as someone's representative, please print information about that person not yourself.

**SECTION 1: APPLICANT INFORMATION**

- Please PRINT your legal name including your first name, middle initial and last name; home telephone number, and the full address where you live.
- MAILING ADDRESS: PRINT your mailing address if it is different from your residence.
- FORMER ADDRESS: If you have moved in the last year, enter your previous address.
- OTHER PHONE NUMBERS: Enter other phone numbers where you can be reached.

**SECTION 2: HOUSEHOLD MEMBERS INFORMATION**

- **LIST THE NAMES OF EVERYONE WHO LIVES WITH YOU, EVEN IF THEY ARE NOT APPLYING WITH YOU.**
- PRINT your full name first. Then PRINT the names of the other people who live with you.
- PRINT the date of birth and sex for each person applying. Those considered applying are the child (or children) in need of care, their parents (including a stepparent) and siblings under 18 who are in the household.
  You may but do not have to list Social Security Numbers. Social Security Numbers may be used by federal, State and local agencies to prevent duplication of services and fraud and for federal reporting. Check (✓) Yes or No to tell us which *child* is in need of Child Care Assistance.
- For **each** person in the household, PRINT how they are related to you (e.g., wife, son, friend, etc.).
- Check (✓) Yes or No to indicate if each person applying is Hispanic or Latino or not.
- Enter Y (Yes) or N (No) for each of the race/ethnic codes. Race/Ethnic codes: **I** - Native American or Alaskan Native, **A** - Asian, **B** - Black or African American, **P** - Native Hawaiian or Pacific Islander, **W** – White

*Note: This information is required by the Federal government, but is for statistical purposes only. If you do not fill out this section, an interviewer in the agency may fill it out based on observation.*

- List any aliases or maiden names of you or anyone in your household.

**SECTION 3: OTHER PROGRAMS**

- Answer all the questions in this section.

**SECTION 4: HOUSEHOLD MEMBERS UNDER 21 AND ABSENT PARENTS**

- For anyone in the household under the age of 21, you must list the individual's name and the absent parent's name and address.

**SECTION 5: EMPLOYMENT INFORMATION**

- Complete this section on why you need care, the start date of your job, the number of hours per week that you will work, pay rate - how will you be paid (hourly, weekly, bi-weekly, monthly etc.), and your gross pay (the amount of your pay check before anything, such as, taxes is taken out).

**SECTION 6: OTHER INCOME**

- In this section, indicate if anyone applying is receiving income. For any '**Yes'** answers, list the gross amount of income for the period which it is received (e.g., week, bi-weekly, semi-monthly, monthly) and who receives it.

**SECTION 7: LEGAL STATEMENTS**

- **Read this section carefully** or have someone read it to you. You **must complete and sign** this written certification of citizenship for the children in need of Child Care Assistance.

**SECTION 8: SIGNATURES**

- Sign your name. If you have filled out the application for someone else, sign your name. Date the application. If your spouse lives with you, both of you **must** sign the application.

**SECTION 9: ADDITIONAL INFORMATION**

- Use this section to let us know additional information that you think we might need to know.

**SECTION 10: CONSENT TO WITHDRAW**

- If you decide you no longer wish to apply for Child Care Assistance, sign your name and enter date. You may reapply at any time.

**In addition to the *Child Care Services Application*, make sure you have been given copies of:**

- **LDSS-4148A:** "What You Should Know About Your Rights and Responsibilities"
- **LDSS-4148B:** "What You Should Know About Social Services Programs"
- **LDSS-4148C:** "What You Should Know If You Have an Emergency"

**These booklets contain important information about your rights and responsibilities.**

# 10-OCFS-INF-10
# *Law 191 Invalidating Puerto Rican Birth Certificates*

The purpose of this INF is to provide social service districts and voluntary authorized agencies with information related to action by the government of Puerto Rico, enacting Law 191 of 2009 invalidating Puerto Rican birth certificates effective October 1, 2010.

This page left intentionally blank.

**David A. Paterson**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 10-OCFS-INF-10 |
| **To:** | Commissioners of Social Services<br>Executive Directors of Voluntary Authorized Agencies |
| **Issuing Division/Office:** | Strategic Planning and Policy Development |
| **Date:** | September 8, 2010 |
| **Subject:** | **Law 191 Invalidating Puerto Rican Birth Certificates** |
| **Suggested Distribution:** | Directors of Services<br>Foster Care Supervisors<br>Child Care Supervisors<br>Adoption Supervisors<br>Preventive Supervisors<br>Protective Supervisors |
| **Contact Person(s):** | Programmatic questions should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services:<br>BRO – Mary Miller (716) 847-3145 Mary.Miller@ocfs.state.ny.us<br>RRO – Karen Buck (585) 238-8549 Karen.Buck@ocfs.state.ny.us<br>SRO – Jack Klump (315) 423-1200 Jack.Klump@ocfs.state.ny.us<br>ARO – Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us<br>SVRO – Pat Sheehy (845) 708-2498 Patricia.Sheehy@ocfs.state.ny.us<br>NYCRO – Patricia Beresford (212) 383-1788 Patricia.Beresford@ocfs.state.ny.us |
| **Attachments:** | No |
| **Attachment Available Online:** | NA |

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| | | | 18 NYCRR 351.5(a) | NYS OCFS Eligibility Manual for Child Welfare Programs | |

## I. Purpose

The purpose of this Informational Letter (INF) is to provide social services districts and voluntary authorized agencies with information related to action by the government of Puerto Rico, enacting Law 191 of 2009 (As Amended) invalidating Puerto Rican birth certificates effective October 1, 2010.

## II. Background

In December 2009, the government of Puerto Rico enacted Law 191 of 2009 (Amended June 2010), designed to strengthen the issuance and usage of birth certificates and to combat identity fraud of all people born in Puerto Rico. This new law was based on collaboration with the U.S. Department of State (DOS) and the U.S. Department of Homeland Security (DHS) to address the fraudulent use of Puerto Rico issued birth certificates to unlawfully obtain U.S. passports, Social Security benefits and other federal and state services.

Many common official and unofficial transactions have unnecessarily required the submission, retention, and storage of birth certificates. Hundreds of thousands of these birth certificates were stored by the Puerto Rican government without adequate protection, making them easy targets for theft. As a result, many birth certificates issued by the Puerto Rican government have been stolen from schools and other institutions and sold on the black market. Since Puerto Rican birth certificates are proof of U.S. citizenship, they are very valuable on the black market and have been used by foreign nationals as a means to illegally enter the U.S. These stolen birth certificates have also been used to illegally obtain licenses and other government and private sector documentation and benefits.

Understanding the enormous risks to all individuals as well as the very significant homeland and national security concerns, the government of Puerto Rico took action to improve the security of all Puerto Rican birth certificates and to protect Puerto Ricans and the public at large from fraud and identity theft.

Puerto Rican Law 191, which went into effect on January 1, 2010, and which was amended in June 2010, implements the following changes:

- Starting July 1, 2010, the Puerto Rico Department of Health began issuing new, more secure birth certificates through the Vital Statistics Record Office, incorporating state-of-the-art technology to limit the possibility of document forgery.

- On October 1, 2010, the law will invalidate all birth certificates issued prior to July 1, 2010. The purpose of this three-month overlap in the validity of the old and the new birth certificates is to provide those Puerto Rican-born, who may need a birth certificate for documentation, a three-month window to apply for and receive their new birth certificate.

Citizens born in Puerto Rico but residing in New York State may obtain a copy of a new birth certificate by filling out a Birth Certificate Application form from the Puerto Rico Vital Statistics Office **on or after July 1, 2010**. There is a $5 fee for a new birth certificate. The fee is waived for people over 60 and veterans of the U.S Armed Forces.

Applications for a new Puerto Rican birth certificate can be obtained as follows:

**Online**

Go to www.pr.gov and then click the Certificado de Nacimiento button. Follow the instructions on the screen.

Please note that the Puerto Rican government websites are in Spanish, but there is an English version of the instructions for applying online for a new birth certificate.

**Mail-in Applications**

Puerto Rican birth certificate application forms are available in Spanish at:

http://www.prfaa.com/certificadosdenacimiento/.

Birth certificate applications forms are available in English at:

www.prfaa.com/birthcertificates/.

After applicants complete and sign the application form, they need to follow these steps:

1. Mail the completed and signed application to:

   Puerto Rico Vital Statistics Office
   (Registro Demográfico)
   P.O. Box 11854
   San Juan, PR 00910

2. Include a photocopy of a valid government-issued photo identification document. A passport or driver's license may be used; all other forms of government-issued ID will be subject to approval.

3. Include a $5 money order payable to the Secretary of the Treasury of Puerto Rico.

4. Include a self-addressed, postage-paid envelope.

## III. Program Implications

Title IV-E and TANF-EAF foster care cases opened after September 30, 2010

Birth certificates may be used to verify the eligibility factors, including:

- Identity
- Age of the child
- Citizenship of the child
- Minor child

If districts, voluntary authorized agencies or workers are unable to verify the eligibility factors from an alternate source, as indicated in the NYS OCFS Eligibility Manual for Child Welfare Programs[*], a new Puerto Rican birth certificate or similar document is required.

TANF-EAF family cases (in-home) opened after September 30, 2010

Birth certificates may be used to verify the eligibility factors including:

- Identity
- Age of the child
- Citizenship of the child
- Minor child

If districts or voluntary authorized agency caseworkers are unable to verify the eligibility factors from an alternate source, as indicated in the NYS OCFS Eligibility Manual for Child Welfare Programs*, a new Puerto Rican birth certificate or similar document is required.

Title XX-200% cases opened after September 30, 2010

Attestation of U.S. citizenship is usually sufficient. However, if proof is required, a new Puerto Rican birth certificate or similar document is required.

Child Care Assistance Eligibility Factors

Birth certificates may be used to verify the eligibility factors, including:

- Identity
- Age of the child
- Citizenship of the child

If district caseworkers are unable to verify the eligibility factors from alternate documents or sources of information, including previous case notes, a new birth certificate issued by the Puerto Rican government or an appropriate alternate source of verification must be pursued.

[*] The Eligibility Manual for Child Welfare Programs can be accessed at: http://www.ocfs.state.ny.us/main/publications/eligibility/

**Individuals born in Puerto Rico who maintain active or open cases *do not* have to obtain a new birth certificate or provide alternate proof of U.S. citizenship for continued eligibility or re-certification. For all new cases and previously closed cases that are being re-opened, a new birth certificate issued by the Puerto Rican government or alternate source of verification must be acquired if being used to determine eligibility.**

Puerto Ricans are U.S. citizens and, as required by 18 NYCRR 351.5(a), districts must, when necessary, assist Puerto Rican applicants applying on or after July 1, 2010, in obtaining a new birth certificate, including paying the $5 fee if the applicant is unable to pay. It is strongly recommended that for each Puerto Rican born child currently in foster care that a new birth certificate be obtained. The cost can be authorized in WMS using POS code 71 (Gifts).

/s/ *Nancy W. Martinez*

**Issued By:**
Name: Nancy W. Martinez
Title: Director
Division/Office: Strategic Planning & Policy Development

# 13-OCFS-LCM-04
# *Revised Client Notification Forms for Child Care Subsidy*

The purpose of the Local Commissioners Memorandum (LCM) is to issue revised forms that must be used by local department of social services (LDSS) to provide notifications to public assistance and low-income clients on actions related to their applications for a child care subsidy and/or child care subsidy benefits. This notification is required by Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Parts 358, 404, and 415. This LCM replaces 01-OCFS-LCM-08, dated August 1, 2001. Local equivalents of the required forms must be approved by the Bureau of Early Childhood Services prior to their use.

This page left intentionally blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 13-OCFS-LCM-04 |
| **To:** | Local District Commissioners<br>Director of Services<br>Child Care Unit Supervisors<br>Temporary Assistance Unit Supervisors |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | March 29, 2013 (*Revised April 18, 2013*) |
| **Subject:** | **Revised Client Notification Forms for Child Care Subsidy** |
| **Contact Person(s):** | Michael Miller, Division of Child Care Services, (518) 408-3395<br>Michael.Miller@ocfs.ny.gov |
| **Attachments:** | Click on titles to view sample forms:<br>A: OCFS-LDSS- 4779 Approval of Your Application for Child Care Benefits<br>B: OCFS-LDSS- 4780 Denial of Your Application for Child Care Benefits<br>C: OCFS-LDSS-4781 Notice of Intent to Change Child Care Benefits and Family Share Payments<br>D: OCFS-LDSS-4782 Notice of Intent to Discontinue Child Care Benefits<br>E: OCFS-LDSS-4783 Delinquent Family Share<br>F: OCFS-4773 Child Care Eligibility Re-Determination Coming Due |
| **Attachment Available Online:** | Original forms are available on the OCFS *intranet* only, at:<br>http://ocfs.state.nyenet/admin/Forms/ |

## I. Purpose

The purpose of the Local Commissioners Memorandum (LCM) is to issue revised forms that must be used by local department of social services (LDSS) to provide notifications to public assistance and low-income clients on actions related to their

applications for a child care subsidy and/or child care subsidy benefits. This notification is required by Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) Parts 358, 404, and 415.

## II. Background

LDSS were previously notified in 01-OCFS-LCM-08, dated August 1, 2001, of the requirement to provide notification to applicants of child care subsidy benefits funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX. This LCM replaces 01- OCFS-LCM-08.

The requirements to provide notifications to applicants of child care subsidy benefits funded under NYSCCBG and Title XX have not changed. However, the forms have been revised in order to provide more specific information to the applicant or recipient as to why an action is being undertaken.

If an LDSS wishes to use local equivalents of the required forms, such forms must be approved by OCFS's Division of Child Care Services (DCCS) prior to their use by LDSS. Any previously approved local equivalents of the client notices must be revised and resubmitted for approval to DCCS prior to their continued use by LDSS.

## III. Program Implications

LDSS must provide recipients of child care services with adequate and timely notice in accordance with Title 18 of the NYCRR §358-2.2 and §358-2.23, respectively. Adequate notice is defined in Title 18 of the NYCRR §358-2.2 and specifies the information that must be included in the notice to a recipient. Timely notice is defined in Title 18 of the NYCRR §358-2.23 as a notice that is mailed at least ten days before the date upon which the proposed action is to be taken.

Adequate and timely notice must be sent by an LDSS when it proposes to:

- Take any action to discontinue, suspend or reduce child care services; or
- Make a change in the manner of payment for public assistance recipients or parents/caretakers who are guaranteed child care and such change results in the discontinuance, suspension, reduction or termination of child care services or forces the recipient to make changes in child care arrangements.

Adequate notice must be sent by an LDSS when it proposes to:

- Approve or deny an application for child care services;
- Increase the amount of child care benefits; or
- Make a change in the manner of payment for public assistance recipients or parents/caretakers who are guaranteed child care and such change does not result in the discontinuance, suspension, reduction or termination of child care services or force the recipient to make changes in child care arrangements.

## IV. Notice Requirements

The revised forms below meet the standards for adequate notice. Two copies of the notice should be sent so that applicants/recipients can use one copy to request a fair hearing and retain one for their records.

**Attachment A: OCFS-LDSS-4779, Approval of Your Application for Child Care Benefits** must be used by the LDSS when an application for child care benefits has been approved at initial application, at recertification, or when transitional child care has been approved. At recertification, if the benefits have changed, the LDSS must also send the recipient OCFS-LDSS 4781, Notice of Intent to Change Child Care Benefits. LDSS must show how the family share was calculated in the Family Share portion of the form and indicate if the child care benefits will be paid to the parent or provider in the Benefits portion of the form. The effective dates of the child care benefits must also be included on the notice.

**Attachment B: OCFS-LDSS-4780, Denial of Your Application for Child Care Benefits** must be used by LDSS when an application for child care benefits has been denied at initial application. LDSS must select one or more of the denial reasons listed on the form. Below is the list of denial reasons and the information that must be provided.

- **The family's income for their family size exceeds 200% of the State Income Standard (SIS).** The LDSS must indicate the family's monthly gross income, the family's size and the maximum SIS for the family's size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income and what the maximum SIS monthly income is for the family's size.

- **The family did not provide all of the required documentation.** The LDSS selects this denial reason if the family failed to provide the required documentation. The LDSS must specify the exact documentation the family failed to provide which led to the denial of benefits.

- **The family is not programmatically eligible.** The LDSS selects this denial reason if the reason for care is not allowed under New York State regulation, or if the LDSS has not included this category of family in its Child and Family Services Plan. The LDSS must inform the applicant as to why the family's reason for care cannot be approved. If the denial is based on New York State regulation, the LDSS must cite the regulation in the reason for denial. If the denial is based on category of family in its Child and Family Services Plan, the LDSS must cite where eligible families are defined in its Child and Family Services Plan.

- **Due to insufficient funding, the LDSS is not opening cases.** The LDSS selects this denial reason if it has been determined that it only has sufficient funding to

maintain its current caseload. At a fair hearing, LDSS must be prepared to present supporting documentation that the LDSS does not have sufficient funding to open cases for all eligible families. Supporting documentation could include, but is not limited to, the relevant allocation LCM, ceiling reports, Excel spread sheets showing monthly claims and available funds, and the approved child care section of their Child and Family Services Plan along with the plan approval letter.

- **Due to insufficient funding, the LDSS can only open cases up to a percentage (determined by the LDSS) of the State Income Standard**. The LDSS selects this denial reason if they have determined that there are insufficient funds to open cases for all eligible families. The LDSS must indicate what its local priority level is for the monthly gross income standard, compared to the family's monthly gross income for the family's size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income and what its priority is for the monthly gross income standard for its family size. At a fair hearing, the LDSS must be prepared to present supporting documentation that the LDSS does not have sufficient funding to provide child care benefits to all eligible families. Supporting documentation could include, but is not limited to, the relevant allocation LCM, ceiling report, Excel spread sheet showing monthly claims and available funds, and the approved child care section of its Child and Family Services Plan along with the plan approval letter.

- **Other.** The LDSS selects this option when none of the options listed above applies. LDSS must inform the applicant why their application was denied. LDSS may select this option when it denies child care services to a family that has a child with special needs who needs child care. LDSS district must describe why, in sufficient detail, a family with a special needs child, needing child care, was not eligible for child care benefits.

**Attachment C: OCFS-LDSS-4781, Notice of Intent to Change Child Care Benefits and Family Share Payments** must be used by the LDSS when there is a change in: family share, child care provider, and/or authorization of benefits. LDSS must also send this notice at recertification when there has been a change in benefits.

**Attachment D: OCFS-LDSS-4782, Notice of Intent to Discontinue Child Care Benefits** must be used by the LDSS when it intends to end child care benefits. LDSS must select one or more of the closing reasons listed on the form. Below is the list of closing reasons and the information that must be provided.

- **The family's income for their family size exceeds 200% of the State Income Standard (SIS).** The LDSS must indicate the family's monthly gross income and the maximum SIS for its family size. On the addendum, the LDSS must show what sources were used to determine the family's monthly gross income and what the maximum SIS monthly income is for its family size.

- **The family did not provide all of the required documentation.** The LDSS selects this denial reason if the family failed to provide the required documentation. LDSS must specify the exact documentation the family failed to provide which led to the denial of benefits.

- **The family is not programmatically eligible.** The LDSS selects this denial reason if the reason for care is not allowed under New York State regulation, or if the LDSS has not included this category of family in its Child and Family Services Plan. The LDSS must inform the applicant as to why the family's reason for care cannot be approved. If the denial is based on New York State regulation, the LDSS must site the regulation in the reason for denial. If the denial is based on category of family in its Child and Family Services Plan, the LDSS must cite where eligible families are defined in its Child and Family Services Plan.

- **Due to insufficient funding, the LDSS is not able to serve all eligible families.** The LDSS selects this closing reason if they have determined that they do not have sufficient funding to maintain their current caseload. The LDSS must indicate what its income priority level is for the monthly gross income standard for the family's size compared to the family's monthly gross. On the addendum, LDSS must show what sources were used to determine the family's monthly gross income and what the LDSS priority is for the monthly gross income standard for its family size. At a fair hearing, LDSS must be prepared to present supporting documentation that the LDSS does not have sufficient funding to provide child care benefits to all eligible families. Supporting documentation could include, but is not limited to: the relevant allocation LCM, ceiling reports, Excel spreadsheets showing monthly claims and available funds, and the approved child care section of its Child and Family Services Plan along with the plan approval letter.

- **Other.** The LDSS selects this option when none of the options listed above applies. The LDSS must inform the recipient why their child care case is closing. LDSS may select this option when it discontinues child care services to a family needing child care for a child with special needs. LDSS must describe why a family with a special needs child, needing child care, will no longer be eligible for child care benefits.

**Attachment E: OCFS-LDSS-4783, Delinquent Family Share** must be used by LDSS when a family has been delinquent in paying its family share. This form has not been revised.

**Attachment F: OCFS-4773, Child Care Eligibility Re-Determination Coming Due** may be used by the LDSS to notify the family that the re-determination of their programmatic and financial eligibility is coming due. The form advises the family what documentation is needed to re-determine the family's eligibility.

## VI. Access to Client Notices Forms

The client notices are available in English and Spanish on the OCFS intranet site at http://ocfs.state.nyenet/admin/Forms/ .

The client notices will also be available through the Child Care Time and Attendance System (CCTA). LDSS are encouraged to use the client notices through CCTA as most of the information will auto-fill, which will cut down on staff time needed to complete the forms.

Hard copies of the client notices will be available 30-days from the release of this LCM.

## VII. Effective Date

LDSS must implement the use of the revised client notices (or an approved local equivalent) within 60 days from the date of this LCM.

## VIII. Contact Person

Questions regarding this LCM or a request for approval of a local equivalent of these forms may be directed to Michael Miller, Division of Child Care Services, at (518) 408-3395, or email at Michael.Miller@ocfs.ny.gov .

*/s/ Janice M. Molnar, Ph.D.*

**Issued by:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

# Memorandum
# *Mandatory Child Care Notices Effective 5/15/04*

The purpose of LCM, *Mandatory Child Care Notices, Effective 5/15/04,* is to inform the social services districts of the issuance of revised forms that must be used by social services districts to provide notification to clients on actions related to his or her application for child care subsidy benefits as required by Title 18 of the NYCRR Part 358, 404, and 415. It also provides the definition of adequate and timely notice, and when it applies.

This page left intentionally blank.

New York State
Office of
Children & Family
Services

George E. Pataki
*Governor*

John A. Johnson
*Commissioner*

Capital View Office Park

52 Washington Street
Rensselaer, NY 12144-2796

# MEMORANDUM

To: Local District Commissioners

From: Suzanne Zafonte Sennett

Subject: Mandatory Child Care Notices Effective 5/15/04

Date: May 13, 2004

As you know, various changes to the child care subsidy program and certain changes to the fair hearing regulations, found in Title 18 of the New York State Code of Rules and Regulations (NYCRR) Parts 358 and 415 respectively, are effective on May 15, 2004. OCFS has begun to train local district staff with regard to these changes. In addition to the training, a comprehensive ADM will be released in late June or in early July on all the changes related to child care subsidies. However, due to the crucial nature of the changes relative to fair hearings, OCFS felt that it was necessary to send this letter to remind all local districts of these changes relative to fair hearing rights and client notices. Enclosed with this letter are copies of the updated client notices. The changes are as follows.

- Districts must provide aid continuing, as appropriate, for all child care recipients.

- Districts must always provide adequate notice when there is a change in the method of payment for all recipients of child care services. If the change in method of payment results in the discontinuation, suspension, reduction, termination of benefits, or forces the recipient to make changes in their child care arrangement, the recipient now must receive both adequate and timely notice.

- Applicants and recipients may now access fair hearing request forms from the New York State Office of Temporary and Disability Assistance (OTDA) website (www.otda.state.ny.us.us/oah/forms.asp) and may request a fair hearing via electronic mail. Additionally, a statewide toll free number has replaced the regional numbers previously provided for requesting a fair hearing. The State client notice forms are being modified to reflect the changes. When the modification process is complete, the State forms may be ordered by sending a request to OCFS, Forms Management Unit, Room 101, South Building, 52 Washington Street, Rensselaer, N.Y. 12144. In the interim, please make copies of the enclosed forms for your use. They include the following: LDSS 4779-Approval of

Your Application for Child Care Benefits, LDSS 4780- Denial of Your Application for Child Care Benefits, LDSS 4781- Notice of Intent to Change Child Care Benefits and LDSS 4782- Notice of Intent to Discontinue Child Care Benefits.

- If an applicant is denied child care benefits or a recipient has their child care benefits terminated because the applicant/recipient failed to actively pursue child support without a good cause exception, the district must identify the reason for the action in the appropriate notice. In the denial notice, please include this language under the "You are not programmatically eligible for child care services because" section. All local districts must use the following language when denying or terminating child care benefits for not pursuing child support without a good cause exception, on the LDSS 4780- Denial of Your Application For Child Care Benefits, or the LDSS 4782-Notice of Intent to Discontinue Child Care Benefits, as appropriate: "You did not actively pursue court-ordered child support for [name of child(ren)] and did not show that you have good cause for not actively pursuing child support." The regulation that must be cited when referencing this provision is 18 NYCRR 415.3(c).

In addition, when citing a regulation in any notice after May 15, 2004, please check to see that the correct cite is used. During the various changes made to the regulations, many sections were re-named and re-numbered. Thus, many existing provisions have new cites.

If you have any questions regarding the above, or on any other changes in the regulations, please contact the Bureau of Early Childhood Services Subsidy Unit at (518) 474-9324.

# *Client Notification Forms*

Samples of the following Client Notification Forms are included:

- Approval of Your Application for Child Care Benefits
- Denial of Your Application for Child Care Benefits
- Notice of Intent to Change Child Care Benefits
- Notice of Intent to Discontinue Child Care Benefits
- Delinquent Family Share Model Form
- Child Care Eligibility Re-Determination Coming Due
- Notice of Child Care Assistance Overpayment and Repayment Requirements
- Notice of Fraud Determination, Disqualification for Child Care Benefits and Repayment Plan

This page intentionally left blank.

NEW YORK STATE

OFFICE OF CHILDREN AND FAMILY SERVICES

# APPROVAL OF YOUR APPLICATION FOR CHILD CARE BENEFITS

| NOTICE DATE: | EFFECTIVE DATE | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP |
| | | OR Agency Conference<br>Fair Hearing information and assistance<br>Record Access<br>Legal Assistance Information |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | WORKER TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

Your application dated _____ for child care benefits has been approved.

Your child care benefits are effective* _____ to* _____ while you are _____.

Comments:

**BENEFITS. Payment will be provided on behalf of the following:**

| Child(ren): | For this provider: | For the amount of:** | Full Time or Part Time: |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

***Note: "effective" means the action or benefit begins on that day, "to" means the action or benefit is in effect on that date.***

****Payment may vary based on fluctuations in your approved activity and/or absences.***

**Benefits will be paid:** ☐ Directly to you. ☐ Directly to your provider.

Your provider must submit a monthly bill and attendance sheet.

**FAMILY SHARE. You are responsible for paying the following fees:**

☐ Effective _____, a **Weekly Family Share** must be paid to _____ in the amount of $_____ per week.

☐ Effective _____, an **Additional Family Share** must be paid to _____ in the amount of $_____ per week.

☐ Effective _____, a **Court Ordered Family Share** must be paid to _____ in the amount of $_____ per week, for the child(ren) _____.

**The following information is an explanation of how your weekly family share was determined.**

Family's annual gross income $_____

Minus 100% annual state income standard for a family size of _____ $_____

Remaining income $_____

Remaining income $_____ X family share %_____% = $_____

$_____ / 52 weeks = $_____ weekly family share

All family share amounts are rounded to the nearest $0.50. There is a minimum fee of $1 per week for all families not receiving TA.

**In order to continue to receive benefits these are your responsibilities:**

- Notify your caseworker immediately of any change in family income, who lives in your house, employment, child care arrangements or other changes which may affect your continued eligibility or the amount of your benefit.
- Promptly pay any family share required.

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**

**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**

CLIENT/FAIR HEARINGS COPY

SAMPLE ONLY

**RIGHT TO REJECT SERVICES:** Approval of your application does not obligate you to accept the services. You may choose to decline the services.

**RIGHT TO A CONFERENCE**: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice or by sending a written request to us at the address listed at the top of the first page of this notice. This number is used only for asking for a conference. **It is not the way you request a fair hearing.**

**If you ask for a conference you are still entitled to a fair hearing. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information**.

**RIGHT TO A FAIR HEARING**: If you believe that the above action is wrong, you may request a State fair hearing by:

(1) **Telephoning**: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **1-800-342-3334. OR**

(2) **Writing:** Complete the information below, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York, 12201-1930. **Please keep a copy for yourself**. **OR**

(3) **FAX**: Complete the information, sign and fax both sides of this form for your fair hearing request to (518) 473-6735. **OR**

(4) **Online**: To send your fair hearing request online, go to http://www.otda.ny.gov/oah, click on the links to request a fair hearing using the online form, and follow the instructions to complete and submit the form online.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay-stubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

**LEGAL ASSISTANCE**: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**********

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS**: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you **only** if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page one of this notice or write to us at the address printed at the top of page 1 of this notice.

**********

**REQUEST FOR A FAIR HEARING**

☐ I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

_____

_____

_____

Name: _____ District: _____

Address: _____ Case Number: _____

_____ Telephone: _____

SAMPLE ONLY

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# DENIAL OF YOUR APPLICATION FOR CHILD CARE BENEFITS

| NOTICE DATE: | EFFECTIVE DATE | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP |
| | | OR Agency Conference<br>Fair Hearing information and assistance<br>Record Access<br>Legal Assistance information |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | WORKER TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

Your application dated _____ has been **denied** and the reason or reasons your application has been denied are explained below.

Comments: _____

**You are ineligible to receive benefits because:**

☐ Your monthly gross income of $ _____ for a family size of _____ exceeds 200% of the State Income Standard of $ _____, which is the maximum monthly gross income allowed by New York State regulation to be eligible for child care subsidy. *(Please see the attached addendum for additional information)*

☐ You have not provided us with the following documents: _____

☐ You are not programmatically eligible for child care services because: _____

☐ Due to insufficient funding the district is not opening cases at this time.

☐ Due to insufficient funding, the district is only opening cases up to _____% of the State Income Standard. Your family's monthly gross income of $ _____ exceeds the maximum monthly gross income of $ _____ for your family size. Also, your family does not meet the eligibility criteria for a child care guarantee designation. (*Please see attached addendum for additional information*)

☐ Other: _____

The LAW(S) AND/OR REGULATION(S) that allows us to do this is: _____

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**
CLIENT/FAIR HEARINGS COPY

SAMPLE ONLY

**RIGHT TO A CONFERENCE**: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice or by sending a written request to us at the address listed at the top of the first page of this notice. This number is used only for asking for a conference. **It is not the way you request a fair hearing**. **If you ask for a conference you are still entitled to a fair hearing. A request for a conference alone will not result in continuation of benefits. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information**.

**RIGHT TO A FAIR HEARING**: If you believe that the above action is wrong, you may request a State fair hearing by:

(1) **Telephoning**: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **1-800-342-3334**. **OR**
(2) **Writing:** Complete the information below, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York, 12201-1930. **Please keep a copy for yourself**. **OR**
(3) **FAX**: Complete the information, sign and fax both sides of this form for your fair hearing request to (518) 473-6735. **OR**
(4) **Online**: To send your fair hearing request online, go to http://www.otda.ny.gov/oah, click on the links to request a fair hearing using the online form, and follow the instructions to complete and submit the form online.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay-stubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

**LEGAL ASSISTANCE**: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**********

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS**: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you **only** if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page one of this notice or write to us at the address printed at the top of page 1 of this notice.

**********

**REQUEST FOR A FAIR HEARING**

☐ I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

_____

_____

_____

_____

Name: _____ District: _____

Address: _____ Case Number: _____

_____ Telephone: _____

SAMPLE ONLY

**ADDENDUM TO DENIAL OF YOUR APPLICATION**
**FOR CHILD CARE BENEFITS-FINANCIAL ELIGIBILITY CALCULATION**

Effective Date: _____

Case Name: _____ Case Number: _____

We have determined that you are not eligible for child care benefits. Your family's monthly gross income is $ _____ .

This exceeds the maximum monthly gross income standard of $ _____ for a family size of _____ .

**Please check the information below. If there is a mistake contact your caseworker listed on page one of this notice. If there is a mistake, it could mean that the decision made about your benefits is not correct.**

There is a child with special needs residing in your household. ☐ Yes ☐ No **If you have a child with special needs, that needs child care, you may have received this notice in error. Contact your caseworker on page one of this notice to determine if you were denied child care benefits in error.**

| Your family's **monthly gross income** was determined from the following sources: | | | |
|---|---|---|---|
| ☐ | Wages or salary (18 NYCRR § 404.5(b)(5)(i)) before taxes in the amount of: | $ | per month. |
| ☐ | Social Security (18 NYCRR §404.5(b)(5)(iv)) in the amount of: | $ | per month. |
| ☐ | Child Support (18 NYCRR §404.5(b)(5)(xi)) in the amount of: | $ | per month. |
| ☐ | *Other income not listed above as defined in New York State regulation 18 NYCRR §404.5(b)(5) in the amount of: | $ | per month. |
| | Your family's **total monthly gross income**: | $ | per month. |

The following information is an explanation of how your eligibility for child care benefits was determined. To determine eligibility for child care benefits, your family's monthly gross income for your family size was compared to the Social Service District's (SSD) priority level for the monthly income standard. For a family to be eligible for child care benefits, a family must make less than the Monthly Income Standard amount listed below for their family size. Below are the Monthly Income Standards used by the district to determine your eligibility for child care benefits.

| **Family Size** | **SSD's Priority Level = ____%**<br>**Monthly Income Standard** |
|---|---|
| **1** | |
| **2** | |
| **3** | |
| **4** | |
| **5** | |
| **6** | |
| **7** | |
| **8** | |

For families with more than 8 persons, add $330 for each additional person.

**Your family's monthly gross income is $ _____ for a family size of _____. This exceeds the maximum of $ _____ .**

*Other income not listed above and defined in New York State regulation 18 NYCRR 404.5(b)(5) are defined as but not limited to the following: net income for non-farm self-employment, i.e. gross receipts minus expenses from one's own business, professional enterprise or partnership; or net income from farm self-employment, i.e. gross receipts minus operation expenses from the operation of a firm by a person on his own account, as owner, renter or sharecropper; or dividends, interest (on savings or bonds) income from estates or trusts, net rental income or royalties; public assistance (PA) or welfare payments include PA payments such as SSI and home relief; or pensions and annuities include pensions or retirement benefits paid to a retired person or his survivors; or unemployment compensation, workers' compensation; or alimony; or veterans' pensions.

In addition to the citations listed on the attached notice refer to the district's Child and Family Services Plan, at http://ocfs.ny.gov/main/childcare/plans/plans.asp for additional information on how the district closes cases in the event that there are insufficient funds to provide child care benefits to all eligible families and the order in which they will open new cases should funding become available.

SAMPLE ONLY

**OCFS-LDSS-4781** (Rev. 01/2013)

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF INTENT TO CHANGE CHILD CARE BENEFITS AND FAMILY SHARE PAYMENTS

| NOTICE DATE: | EFFECTIVE DATE | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____ |
| | | OR Agency Conference _____ |
| | | Fair Hearing information and assistance _____ |
| | | Record Access _____ |
| | | Legal Assistance information |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | WORKER TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

This notice is to inform you that this agency intends to change your Child Care benefits.
The changes are: _____

Comments:

**BENEFITS:**

| Child(ren): | For this provider: | For the amount of:* | Full Time or Part Time: |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

***Payment may vary based on fluctuations in your approved activity and/or absences.***

**FAMILY SHARE. You are responsible for paying the following fees:**

☐ Effective _____, a **Weekly Family Share** must be paid to _____
in the amount of $ _____ per week.

☐ Effective _____, an **Additional Family Share** must be paid to _____
in the amount of $ _____ per week.

☐ Effective _____, a **Court Ordered Family Share** must be paid to _____
in the amount of $ _____ per week, for the child(ren) _____

**The following information is an explanation of how your weekly family share was determined.**

Family's annual gross income $ _____
Minus 100% annual state income standard for a family size of _____ $ _____
Remaining income $ _____
Remaining income $ _____ X family share % _____ % = $ _____
$ _____ / 52 weeks = $ _____ weekly family share.

All family share amounts are rounded to the nearest $0.50. There is a minimum fee of $1 per week for all families not receiving TA.

The reason for this action is: _____

The LAW(S) AND/OR REGULATION(S) that allows us to do this is: _____

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**

CLIENT/FAIR HEARINGS COPY

SAMPLE ONLY

**RIGHT TO A CONFERENCE**: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice or by sending a written request to us at the address listed at the top of the first page of this notice. This number is used only for asking for a conference. **It is not the way you request a fair hearing**. **If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information**.

**RIGHT TO A FAIR HEARING**: If you believe that the above action is wrong, you may request a State fair hearing by:

(1) **Telephoning**: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **1-800-342-3334**. **OR**
(2) **Writing:** Complete the information below, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York, 12201-1930. **Please keep a copy for yourself**. **OR**
(3) **FAX**: Complete the information, sign and fax both sides of this form for your fair hearing request to (518) 473-6735. **OR**
(4) **Online**: To send your fair hearing request online, go to http://www.otda.ny.gov/oah, click on the links to request a fair hearing using the online form, and follow the instructions to complete and submit the form online.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay-stubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

**Check one**:

☐ **KEEP MY CHILD CARE BENEFITS THE SAME.** If you request a fair hearing before the effective date of this notice, your child care benefits will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care benefits that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care benefits you receive that you were not entitled to, which may be collected by reduction of future child care allotments, lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care benefits.

☐ **I do not want my child care benefits continued until the hearing decision is issued.**

**LEGAL ASSISTANCE**: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**********

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS**: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page one of this notice or write to us at the address printed at the top of page one of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you **only** if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page one of this notice or write to us at the address printed at the top of page one of this notice.

**********

**REQUEST FOR A FAIR HEARING**

☐ I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

_____

_____

_____

_____

Name: _____ District: _____

Address: _____ Case Number: _____

_____ Telephone: _____

SAMPLE ONLY

**ADDENDUM TO NOTICE OF INTENT TO CHANGE CHILD CARE BENEFITS AND FAMILY SHARE PAYMENTS-FINANCIAL ELIGIBILITY CALCULATION**

Effective Date: _____

Case Name: _____

Case Number: _____

The amount that you pay for your family share has changed from _____ to _____

**Below are the sources of income used to calculate your family's income and the calculation used to determine your family share.**

**Please check the information below. If there is a mistake contact your caseworker listed on page one of this notice.**

| Your family's **monthly gross income** was determined from the following sources: | | |
|---|---|---|
| ☐ | Wages or salary (18 NYCRR § 404.5(b)(5)(i)) before taxes in the amount of: | $ per month. |
| ☐ | Social Security (18 NYCRR §404.5(b)(5)(iv)) in the amount of: | $ per month. |
| ☐ | Child Support (18 NYCRR §404.5(b)(5)(xi)) in the amount of: | $ per month. |
| ☐ | *Other income not listed above as defined in New York State regulation 18 NYCRR §404.5(b)(5) in the amount of: | $ per month. |
| | Your family's **total monthly gross income**: | $ per month. |

**The following information is an explanation of how your weekly family share was determined.**

Family's total monthly gross income $ _____ X 12 months = $ _____ Annual Income

Family's annual gross income $ _____

Minus 100% state income standard for a family size of _____ $ _____

Remaining income $ _____

Remaining income $ _____ X family share % _____ % = $ _____

$ _____ / 52 weeks = $ _____ weekly family share.

| Family Size | 100% Annual State Income Standard |
|---|---|
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |

For families with more than 8 persons, add $3,960 for each additional person.

*Other income not listed above and defined in New York State regulation 18 NYCRR 404.5(b)(5) are defined as but not limited to the following: net income for non-farm self-employment, i.e. gross receipts minus expenses from one's own business, professional enterprise or partnership; or net income from farm self-employment, i.e. gross receipts minus operation expenses from the operation of a firm by a person on his own account, as owner, renter or sharecropper; or dividends, interest (on savings or bonds) income from estates or trusts, net rental income or royalties; public assistance (PA) or welfare payments include PA payments such as PA, SSI and home relief; or pensions and annuities include pensions or retirement benefits paid to a retired person or his survivors; or unemployment compensation, workers' compensation; or alimony; or veterans' pensions.

SAMPLE ONLY

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF INTENT TO DISCONTINUE CHILD CARE BENEFITS

| NOTICE DATE: | EFFECTIVE DATE | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____<br>OR Agency Conference _____<br>Fair Hearing information and assistance _____<br>Record Access _____<br>Legal Assistance information |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | WORKER TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

This notice is to inform you that your case will be closed on _____ .

You will no longer be receiving child care benefits beginning on _____ .

Comments:

**The reason for this action is:**

☐ Your monthly gross income of $ _____ for a family size of _____ exceeds 200% of the State Income Standard $ _____ , which is the maximum monthly gross income allowed by New York State regulation to be eligible for child care subsidy. *(Please see the attached addendum for additional information)*

☐ Due to insufficient funding, the district is closing cases at or above _____ % of the State Income Standard. Your family's monthly gross income of $ _____ exceeds the maximum monthly gross income of $ _____ for your family size. Also, your family does not meet the eligibility criteria for a child care guarantee designation. *(Please see the attached addendum for additional information)*

☐ You are not programmatically eligible for child care services because: _____

☐ You did not provide the following documentation or the following documentation was not adequate: _____

☐ Other _____

The LAW(S) AND/OR REGULATION(S) that allows us to do this is: _____

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.**
**BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION**

CLIENT/FAIR HEARINGS COPY

SAMPLE ONLY

**RIGHT TO A CONFERENCE**: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the front of this notice or by sending a written request to us at the address listed at the top of the first page of this notice. This number is used only for asking for a conference. **It is not the way you request a fair hearing**. **If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Requesting an agency conference does not affect your right to also request a fair hearing. Read below for fair hearing information**.

**RIGHT TO A FAIR HEARING**: If you believe that the above action is wrong, you may request a State fair hearing by:

(1) **Telephoning**: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) **1-800-342-3334**. **OR**
(2) **Writing:** Complete the information below, sign and mail to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York, 12201-1930. **Please keep a copy for yourself**. **OR**
(3) **FAX**: Complete the information, sign and fax both sides of this form for your fair hearing request to (518) 473-6735. **OR**
(4) **Online**: To send your fair hearing request online, go to http://www.otda.ny.gov/oah, click on the links to request a fair hearing using the online form, and follow the instructions to complete and submit the form online.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING**
If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay-stubs, receipts, child care bills, medical verification, letters, etc. that may be helpful in presenting your case.

***Check One:***

☐ **KEEP MY CHILD CARE BENEFITS THE SAME.** If you request a fair hearing before your benefits end, your child care benefits will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care benefits that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care benefits you receive that you were not entitled to, which may be collected by reduction of future child care allotments, lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care benefits.

☐ **I do not want my child care benefits continued until the hearing decision is issued.**

**LEGAL ASSISTANCE**: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS**: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you may need to prepare for your fair hearing. If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you **only** if you specifically ask that they be mailed.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of page one of this notice or write to us at the address printed at the top of page 1 of this notice.

**REQUEST FOR A FAIR HEARING**
I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

_____

_____

_____

Name: _____ District: _____

Address: _____ Case Number: _____

_____ Telephone: _____

SAMPLE ONLY

**ADDENDUM TO NOTICE OF INTENT**
**TO DISCONTINUE CHILD CARE BENEFITS-FINANCIAL ELIGIBILITY CALCULATION**

Effective Date: _____

Case Name: _____ Case Number: _____

We have determined that you are no longer eligible for child care benefits. Your family's monthly gross income is $ _____.

This exceeds the maximum monthly gross income standard of $ _____ for a family size of _____.

**Please check the information below. If there is a mistake contact your caseworker listed on page one of this notice. If there is a mistake, it could mean that the decision made about your benefits is not correct.**

There is a child with special needs residing in your household. ☐ Yes ☐ No **If you have a child with special needs, that needs child care, you may have received this notice in error. Contact your caseworker listed on page one of this notice to determine if your case was closed in error.**

| Your family's **monthly gross income** was determined from the following sources: | | | |
|---|---|---|---|
| ☐ | Wages or salary (18 NYCRR § 404.5(b)(5)(i)) before taxes in the amount of: | $ | per month. |
| ☐ | Social Security (18 NYCRR §404.5(b)(5)(iv)) in the amount of: | $ | per month. |
| ☐ | Child Support (18 NYCRR §404.5(b)(5)(xi)) in the amount of: | $ | per month. |
| ☐ | *Other income not listed above as defined in New York State regulation 18 NYCRR §404.5(b)(5) in the amount of: | $ | per month. |
| | Your family's **total monthly gross income**: | $ | per month. |

The following information is an explanation of how your eligibility for child care benefits was determined. To determine eligibility for child care benefits, your family's monthly gross income for your family size was compared to the Social Service District's (SSD) priority level for the monthly income standard. For a family to be eligible for child care benefits, a family must make less than the Monthly Income Standard amount listed below for their family size. Below are the Monthly Income Standards used by the district to determine your eligibility for child care benefits.

| **Family Size** | **SSD's Priority level = _____%**<br>**Monthly Income Standard** |
|---|---|
| **1** | |
| **2** | |
| **3** | |
| **4** | |
| **5** | |
| **6** | |
| **7** | |
| **8** | |

For families with more than 8 persons, add $330 for each additional person.

**Your family's monthly gross income is $ _____ for a family size of _____ .**

**This exceeds the maximum income of $ _____ .**

*Other income not listed above and defined in New York State regulation 18NYCRR 404.5(b)(5) are defined as but not limited to the following: net income for non-farm self-employment, i.e. gross receipts minus expenses from one's own business, professional enterprise or partnership; or net income from farm self-employment, i.e. gross receipts minus operation expenses from the operation of a firm by a person on his own account, as owner, renter or sharecropper; or dividends, interest (on savings or bonds) income from estates or trusts, net rental income or royalties, public assistance (PA) or welfare payments include PA payments such as PA, SSI and home relief; or pensions and annuities include pensions or retirement benefits paid to a retired person or his survivors; or unemployment compensation, workers' compensation; or alimony; or veterans' pensions.

In addition to the citations listed on the attached notice refer to the district's Child and Family Services Plan, at http://ocfs.ny.gov/main/childcare/plans/plans.asp for additional information on how the district closes cases in the event that there are insufficient funds to provide child care benefits to all eligible families and the order in which they will open new cases should funding become available.

SAMPLE ONLY

**OCFS-LDSS-4783** (Rev. 12/2004)

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# DELINQUENT FAMILY SHARE FOR CHILD CARE BENEFITS

| NOTICE DATE: | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
|---|---|---|
| CASE NUMBER | CIN NUMBER | |
| CASE NAME (And C/O Name if Present) AND ADDRESS | | GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP _____ |
| | | **OR** Agency Conference _____ |
| | | Fair Hearing information and assistance _____ |
| | | Record Access _____ |
| | | Legal Assistance _____ |

| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME | TELEPHONE NO. |
|---|---|---|---|---|
| | | | | |

This notice is to tell you that you are delinquent in making payment of your family share of $ _____ per _____. The total amount overdue is _____. If the total amount overdue has not been paid, or if a satisfactory arrangement to make payment of the amount overdue has not been made by _____, this agency will take action to discontinue your Child Care benefits.

The Law(s) and/or Regulation(s) that allow us to do this is:

**18 NYCRR Section 404.6(a) and 404.6(b)**

You must pay the total amount overdue or make a satisfactory arrangement for payment of the overdue amount no later than _____ to avoid further action by this agency.

If you need to arrange a payment plan, contact: _____

Your overdue fees should be paid to: _____

SAMPLE ONLY

**FAILURE TO PAY FAMILY SHARE OR MEET THE REQUIREMENTS OF YOUR PAYMENT PLAN WILL LEAD TO DISCONTINUANCE OF YOUR CHILD CARE BENEFITS.**

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF CHILD CARE ASSISTANCE OVERPAYMENT AND REPAYMENT REQUIREMENTS

| | | | |
|---|---|---|---|
| NOTICE DATE | | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
| CASE NUMBER: | CIN NUMBER: | | |
| **CASE Name (And C/O Name if Present) and ADDRESS** | | | GENERAL TELEPHONE NO. FOR **QUESTIONS OR HELP** |
| | | | **OR** Agency Conference |
| | | | Fair Hearings Information and Assistance **1-800-342-3334** |
| | | | Record Access |
| | | | Legal Assistance Information |
| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME / TELEPHONE NO. |

**YOU HAVE THE RIGHT TO A FAIR HEARING TO APPEAL THIS DECISION. YOU ALSO HAVE THE RIGHT TO AN AGENCY CONFERENCE. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION AT A FAIR HEARING AND/OR REQUEST AN AGENCY CONFERENCE.**

## SECTION I – NOTICE OF CHILD CARE ASSISTANCE OVERPAYMENT

You received more child care benefits than you should have (overpayment) from _____ to _____. The amount of the overpayment is $ _____.

The reason the overpayment occurred is:

- ☐ You or someone in your household failed to inform us of changes that affect your eligibility or benefit level.
- ☐ We incorrectly gave you more benefits than you should have gotten due to: _____
- ☐ Other: _____

Explanation and Calculation of Overpayment: _____

**The regulations that allow us to do this are 18 NYCRR 415.4(i) and (j).**

## SECTION II – REPAYMENT PLAN AGREEMENT

**If you are requesting a Fair Hearing regarding this decision, you are not required to complete and sign the repayment plan at this time. However, you must complete and sign the Fair Hearing request on the reverse side of this form and return it to the address indicated on the reverse.**

You are required to make full repayment by _____. If you are unable to repay the overpayment as shown below or you want to set up another agreement plan, or if you have any questions please call _____ at _____, right away. Otherwise, sign this agreement, make a copy of it for yourself, and return the agreement to the address at the bottom of this page. If you do not respond to this notice, your case will be closed.

**Your repayment plan is shown below.**

☐ Revised Family Share – Recovery will be made from your child care benefits. To repay this debt, you must pay $ _____ per week. This is in addition to your current family share of $ _____ per week.

**Your total family share is now $ _____ per week.** You must make this payment each week to your child care provider. Your first payment is due on _____. We will pay your provider $ _____ per week.

☐ You must make weekly payments of $ _____ to the Department of Social Services. You must send payment to the address below. Your first payment is due on _____. We will pay your provider $ _____ per week.

**I agree to repay by this method. I understand that failure to pay the amount stated on time will result in a discontinuation of my child care benefits and/or legal action may be taken in the court to recover this overpayment.**

SIGNATURE _____ DATE _____

**Return this repayment plan agreement to:** **Return Payment to:**

SAMPLE ONLY

**RIGHT TO A CONFERENCE:** You may have an agency conference to review these actions. A conference is when you meet with someone from the agency, other than the person who made the decision, to discuss your case. You may request an agency conference by calling the number on the front of this notice, in the upper right hand corner. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. Requesting an agency conference is not the same as requesting a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you disagree with the decision made by our agency, you may request a fair hearing. At the hearing you will have the opportunity to present written and oral evidence to demonstrate why you think the agency's decision is wrong and the action should not be taken. You have the right to be represented by legal counsel, a relative, friend or other person, or you may represent yourself. You have the right to bring witnesses and to question witnesses at the fair hearing. You have the right to present written and oral evidence at the hearing, and should bring any documents that may be helpful in presenting your case, such as this notice, pay stubs, receipts, child care bills, medical verification, letters, etc. There is additional information below on how to obtain access to your file and copies of documents in your file.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING:**
When you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or, to represent yourself.

**TO REQUEST A FAIR HEARING:**

***Telephoning:*** **1 800-342-3334** (Please have this notice with you when you call).
***Online:*** Complete an online request form at: http://www.otda.state.ny.us/oah/forms.asp.
***Walk In Locations:*** 14 Boerum Place, Brooklyn, NY OR 330 West 34th Street, Third Floor, Manhattan, NY.
***Writing:*** Complete the following information, sign and mail a copy of this entire notice to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. **Please keep a copy for yourself.**
***Faxing:*** Complete the following information, sign and fax this entire notice to the New York State Office of Administrative Hearings at: 518-473-6735.

☐ **I want a fair hearing. The Agency's action is wrong because:** _____

_____

_____

☐ **I understand I may be eligible for aid continuing (current recipients only). My benefits have been stopped and I wish to have my benefits restored (aid continuing) until the hearing decision is issued.**
If you request a fair hearing and aid continuing, within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care benefits, through lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued until the hearing decision is issued.**

| **Signature of Client:** | **Date:** |
|---|---|

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** You have a right to look at your case file, and to receive free copies of the documents that the agency will put into evidence and other documents necessary for you to prepare for the fair hearing. To review your file or receive copies of any documents in your file, you can call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. If you want the documents mailed to you, you must specifically ask that they be mailed. You should ask for documents ahead of time. They will be provided to you within a reasonable time before the date of the hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

SAMPLE ONLY

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# NOTICE OF FRAUD DETERMINATION, DISQUALIFICATION FOR CHILD CARE BENEFITS AND REPAYMENT PLAN

| | | | |
|---|---|---|---|
| NOTICE DATE | | | NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE |
| CASE NUMBER: | CIN NUMBER: | | |
| **CASE Name (And C/O Name if Present) and ADDRESS** | | | GENERAL TELEPHONE NO. FOR **QUESTIONS OR HELP** |
| | | | **OR** Agency Conference |
| | | | Fair Hearings Information and Assistance **1-800-342-3334** |
| | | | Record Access |
| | | | Legal Assistance Information |
| OFFICE NO. | UNIT NO. | WORKER NO. | UNIT OR WORKER NAME / TELEPHONE NO. |

**YOU HAVE THE RIGHT TO AN AGENCY CONFERENCE AND TO A FAIR HEARING TO APPEAL THIS DECISION. BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO REQUEST AN AGENCY CONFERENCE AND/OR A FAIR HEARING.**

**SECTION I – THIS NOTICE IS TO INFORM YOU:**

1. The Department of Social Services has determined that you have fraudulently received child care benefits and you are disqualified from receiving child care benefits, AND
2. You have received an overpayment and you must repay the overpayment.

**The regulation which allows us to do this is: 18 NYCRR 415.4(i).**

**SECTION II – FRAUD DETERMINATION**

The Department's finding of fraudulent receipt of child care benefits was based on:

☐ Your conviction by a court of law on _____ of fraudulently receiving child care benefits.

☐ Your signing a voluntarily admission dated _____.

The fraudulent activity resulted in an overpayment of $ _____, occurring from _____ to _____.

**SECTION III – LENGTH OF DISQUALIFICATION PERIOD**

As a result of the fraudulent receipt of benefits, you are disqualified from receiving child care benefits. New York State regulation, 18 NYCRR 415.4(i)(13), establishes time periods for suspension or termination of benefits depending on the number of offenses and the amount of fraudulent benefits received.

☐ Six months, because this is your first offense.

☐ 12 months, because this is your second offense or the amount of fraudulent benefits you received was between $1,000 and $3,900.

☐ 18 months because this is your third offense, or the amount of fraudulent benefits you received was in excess of $3,900.

☐ Five years, because you have committed four or more previous offenses.

☐ Other (State length of period and reason):

**SECTION IV – EFFECTIVE DATE OF DISQUALIFICATION**

☐ Your disqualification will begin on _____ and end on _____.

☐ You will be subject to the above disqualification penalty if you apply for and are found eligible for child care benefits at a future date.

☐ Your disqualification period will begin or resume once you are no longer participating in an activity required by TA.

**SECTION V: REPAYMENT PLAN AGREEMENT**

**If you are requesting a Fair Hearing regarding this decision, you are not required to complete and sign the repayment plan at this time. However, you must complete and sign the Fair Hearing request on the reverse side of this form and return it to the address indicated.**

You are required to make full repayment by _____. If you are unable to repay the overpayment as shown below or you want to set up another agreement plan, or if you have any questions, please call _____ at _____, right away. Otherwise, sign this agreement, make a copy of it for yourself, and return the agreement to the address at the bottom of this page.

**Your repayment plan is shown below.**

☐ Recovery will be made from your child care benefits. To repay this debt, you must pay $ _____ each week to your child care provider. This is in addition to your current family share of $ _____ per week. Effective _____, your **total family share** will be $ _____ per week and the amount we pay to your provider will be reduced to $ _____.

☐ To repay this debt, you must pay the Department of Social Services $ _____ per week. Your first payment is due on _____. The final payment is due on _____.

**Send payments to:**

☐ You must continue to follow the repayment plan and/or court order that is already in effect, and is attached to this notice.

**I agree to repay by this method. I understand that failure to pay the amount stated above on time will result in a discontinuation of my child care benefits and/or legal action may be taken in the court to recover this overpayment.**

SIGNATURE _____ DATE _____

**Return this repayment plan agreement to:**

SAMPLE ONLY

**RIGHT TO A CONFERENCE:** You may have an agency conference to review these actions. A conference is when you meet with someone from the agency, other than the person who made the decision, to discuss your case. You may request an agency conference by calling the number on the front of this notice, in the upper right hand corner. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. Requesting an agency conference is not the same as requesting a fair hearing. Read below for fair hearing information.

**RIGHT TO A FAIR HEARING:** If you disagree with the decision made by our agency, you may request a fair hearing. At the hearing you will have the opportunity to present written and oral evidence to demonstrate why you think the agency's decision is wrong and the action should not be taken. You have the right to be represented by legal counsel, a relative, friend or other person, or you may represent yourself. You have the right to bring witnesses and to question witnesses at the fair hearing. You have the right to present written and oral evidence at the hearing, and should bring any documents that may be helpful in presenting your case, such as this notice, pay stubs, receipts, child care bills, medical verification, letters, etc. There is additional information below on how to obtain access to your file and copies of documents in your file.

**YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING:**
When you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or, to represent yourself.

**TO REQUEST A FAIR HEARING:**

***Telephoning:*** **1 800-342-3334** (Please have this notice with you when you call).
***Online:*** Complete an online request form at: http://www.otda.state.ny.us/oah/forms.asp.
***Walk In Locations:*** 14 Boerum Place, Brooklyn, NY **OR** 330 West 34th Street, Third Floor, Manhattan, NY.
***Writing:*** Complete the following information, sign and mail a copy of this entire notice to the New York State Office of Administrative Hearings, Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. **Please keep a copy for yourself.**
***Faxing:*** Complete the following information, sign and fax this entire notice to the New York State Office of Administrative Hearings at: 518-473-6735.

☐ **I want a fair hearing. The Agency's action is wrong because:** _____

_____

_____

☐ **I understand I may be eligible for aid continuing (current recipients only). My benefits have been stopped and I wish to have my benefits restored (aid continuing) until the hearing decision is issued.**
If you request a fair hearing and aid continuing, within ten (10) days of the date of the postmark of the mailing of this notice, your child care will be reinstated and will be unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any child care that you should not have received. We are required to recover any child care overpayments. We must make a claim against you for any child care you receive that you were not entitled to, which may be collected by reduction of future child care benefits, through lump sum installment payments, or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your child care.

☐ **I do not want my benefits continued until the hearing decision is issued.**

| **Signature of Client:** | **Date:** |
|---|---|

**LEGAL ASSISTANCE:** If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** You have a right to look at your case file, and to receive free copies of the documents that the agency will put into evidence and other documents necessary for you to prepare for the fair hearing. To review your file or receive copies of any documents in your file, you can call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice. If you want the documents mailed to you, you must specifically ask that they be mailed. You should ask for documents ahead of time. They will be provided to you within a reasonable time before the date of the hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get copies of documents, call us at the telephone numbers listed at the top of page 1 of this notice or write to us at the address printed at the top of page 1 of this notice.

SAMPLE ONLY

# 14-OCFS-LCM-03
# *Child Care Market Rates*
# *2014-2015*

The purpose of this release is to advise social services districts of the filing of revised regulations related to the market rates and the maximum reimbursements for expenditures for child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). These changes to Title 18 of the New York Codes, Rules and Regulations (NYCRR) Section 415.9 were filed as an emergency rule as well as a notice of proposed rule-making and were effective April 1, 2014. Districts were previously notified in 14-OCFS-INF-01, issued on February 19, 2014, about the revisions to the child care market rates. The regulations were adopted as a final rule on April 30, 2014.

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-03 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | May 9, 2014 |
| **Subject:** | **Child Care Market Rates 2014-2015** |
| **Contact Person(s):** | Rhonda Duffney (518) 474-3775<br>Rhonda.Duffney@ocfs.ny.gov |
| **Attachments:** | Attachment A: Child Care Market Rates |
| **Attachment Available Online:** | NA |

## I. Purpose

The purpose of this release is to advise social services districts of the filing of revised regulations related to the market rates and the maximum reimbursements for expenditures for child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). These changes to Title 18 of the New York Codes, Rules and Regulations (NYCRR) Section 415.9 were filed as an emergency rule as well as a notice of proposed rule-making and were effective April 1, 2014. Districts were previously notified in 14-OCFS-INF-01, issued on February 19, 2014, about the revisions to the child care market rates. The regulations were adopted as a final rule on April 30, 2014.

## II. Background

Federal and New York State law require the State to establish payment rates for child care subsidies that are sufficient to ensure equal access to child care services for eligible children [42 USC 9858c(a)(4)(A); 45 CFR Part 98.43(a); Section 410-x(4) of the Social Services Law]. Federal regulation requires that payment rates be based on a local market

rate survey [45 CFR Part 98.43(b)(2)]. State law requires the Office of Children and Family Services (OCFS) to establish, in regulation, the applicable market-related payment rate, which establishes a ceiling for State and federal reimbursement for payments for child care services (Section 410-x(4) of the Social Services Law).

Payment rates must be sufficient to ensure equal access for eligible families to child care services, comparable to those provided to children whose parents are not eligible to receive assistance under any federal or State child care programs. In addition, market rates must take into account the variations in costs of providing child care in different settings and to children of different age groups as well as the additional cost of providing child care for children with special needs.

In accordance with federal regulatory requirements, OCFS contracted with a market research firm to conduct a telephone survey of a sample of regulated providers. Prior to conducting the telephone survey, a letter was sent to all regulated child care providers to inform them that they might be included in the sample of providers called to participate in the market rate survey. A copy of the questions accompanied the letters so that providers could prepare their responses in advance of their possible participation in the market rate survey. The market research firm conducted the telephone survey in English and in Spanish, as needed, and had resources available to assist providers in other languages as well. Market rate data was collected from 4,474 providers.

Data from the survey were analyzed and the rates from the survey were clustered into five distinct groupings of districts. Market rates were then established for each cluster at the 69th percentile.

The standard market rates for legally-exempt family child care and legally-exempt in-home child care providers reflect a 65 percent differential applied to the market rate established for registered family day care. The enhanced market rates are established at a 70 percent differential applied to the market rates established for registered family day care. Information pertaining to the establishment of the market rates for legally-exempt family child care and legally-exempt in-home child care can be found on pages 10-11.

## III. Program Implications

### Actual Cost of Care

Effective April 1, 2014, payments for child care services under the New York State Child Care Block Grant (NYSCCBG) and under Title XX must be only for the actual cost of care, up to the applicable market rate as updated in Attachment A. The actual cost of care is:

- for care provided pursuant to a contract between the social services district and the provider, the payment rate set forth in the contract; or,

- for care provided in instances other than pursuant to a contract between the social services district and the provider, the amount charged to the general public for equal care in that facility or home. However, if the facility or home cares only for subsidized children, then the actual cost of care is the amount the provider is currently receiving from the social services district for such children, unless the provider can demonstrate to the social services district that the actual cost of providing care to such children is higher than that amount.

Federal and State reimbursement is available for child care services for eligible families only when the cost does not exceed the amount charged by the provider to the general public for similar care.

Social services districts may negotiate contracts with individual providers. The negotiated payment rates may be the same as or lower than the rates charged to non-subsidized families. Even though the negotiated rate may be less than the usual charge to non-subsidized families, the negotiated rate is considered to be the actual cost of care for those child care services provided under a contractual agreement between the social services district and the provider.

A contract cannot be made a condition of receiving payment under the NYSCCBG.

**Determining Actual Cost of Care for Providers Without a Contract Who Care Only for Subsidized Children**

If a provider cares only for children receiving child care subsidies, and does not have a contract with the social services district, then the actual cost of care is the rate the provider currently receives from the social services district. However, if the provider can document that he or she provides similar child care services to a non-subsidized child, currently or in the recent past, and that a higher rate was charged and received from the non-subsidized family, then the district can establish that rate as the actual cost of care. Additionally, if a provider can document that the costs, excluding those that are reimbursed by other sources of funding, related to the provision of child care services have increased in the previous 12 months, then that provider may request a higher payment rate from the district. For this purpose only, the district should consider the increases in costs related to employees' salaries and benefits, occupancy, insurance, equipment, supplies, and food.

The increases in costs have to be solely related to or clearly attributable to the operation of the child care program. For instance, not all costs of homeowners' insurance can be considered; only those costs that the insurance carrier has specifically attributed to the existence of the child care program should be considered. Furthermore, costs of home improvement or maintenance to the general residence would not be considered attributable solely to the operation of the child care program.

Also, the costs associated with the child care program to maintain compliance with existing regulatory standards should not be considered. In offering services as a child

care provider, the provider is attesting to the fact that he or she has and will be satisfying the basic regulatory standards. So, a statement that he or she now has to charge more because the program was compelled to meet those standards does not present a legitimate expense attributable to the operation of a child care program. However, if new regulatory standards are created, the costs incurred by an existing program to meet the new regulatory standards should be considered. For instance, when Alyssa's Law was enacted, costs for physical modifications to the property that were required to comply with Alyssa's Law, which were amortized by the provider over a reasonable period of time, should have been considered solely attributable to the operation of the child care program. Other potential includable costs are those associated with compliance with the administration of medication requirements. For example, out-of-pocket expenses related to retaining a health care consultant or obtaining the required training that are documented by the provider, who is newly choosing to come into compliance with the administration of medication requirements, are to be considered by the district.

In order to determine the amount of increase that is reasonable, the district should annualize the appropriate costs, including amortizing any relevant capital expenditures over a reasonable multiple-year period; then the district should spread the annualized costs over the capacity of the program and convert the costs to a weekly (or daily) increased cost per child. Providers and/or districts can contact the local child care resource and referral agency if they need additional information on how to maintain business records for child care programs.

When considering increased food costs, the district may consider whether the provider has chosen to use other available resources to offset food costs, particularly the Child and Adult Care Food Program (CACFP). If a provider has experienced increased food costs because he or she has voluntarily or involuntary left the CACFP program, such additional food costs should not be considered. If the provider has never participated in CACFP, the district could deny an increase or deny that part of the increase that could be offset by the provider by using the CACFP program.

Generally, the increase in the provider's own salary or profit drawn from the program would not be considered. However, to the extent that the provider has granted increases in the salaries to his or her employees and the provider also delivers direct child care services on-site to the children in his or her program, then a similar increase in the provider's own salary, if any, can be considered as an increase in costs to the program. Additionally, increased personnel costs for a substitute or alternate provider that are documented by the provider may be considered, so long as it is clear that the enhanced staffing was not offset by additional revenues that the provider was able to generate by serving more children.

## A. Determining the Applicable Market Rate

The social services district must consider at least three factors when selecting the applicable market rate for child care services. The factors that affect payment are: the type of provider, age of the child, and duration of care.

Additional factors affecting rates may apply when care is provided outside of the family's district of residence, when care is provided to a child with special needs, when a program is accredited or provides care during non-traditional hours, and when care is provided in excess of a weekly or daily period.

**1. Type of Provider**

**a. Licensed or registered day care centers and legally-exempt group child care** - The maximum payment rate for care provided by licensed or registered day care center providers and by caregivers of legally-exempt group child care as defined in 18 NYCRR Section 415.1 is the applicable market rate for day care centers and legally-exempt group child care.

**b. Registered family day care homes** - The maximum payment rate for care provided by registered family day care homes is the applicable market rate for family day care.

**c. Licensed group family day care homes** - The maximum payment rate for care provided by licensed group family day care homes is the applicable market rate for group family day care.

**d. Registered school-age child care programs** - The maximum payment rate for care provided by registered school-age child care programs is the applicable market rate for school-age child care programs.

**e. Legally-exempt family child care and legally-exempt in-home child care providers** - The maximum payment rate for care provided by legally-exempt family child care and legally-exempt in-home child care providers is the applicable market rate for legally-exempt family child care and in-home child care.

Note: All legally-exempt providers -- including legally-exempt group, legally-exempt family, and legally-exempt in-home providers -- must meet applicable health and safety standards and must be **temporarily enrolled or enrolled** by the legally-exempt caregiver enrollment agency before payment is made.

**2. Age of Child**

Market rates differ according to the age of the child. The age categories are:

**a.** **under** 1 ½ years;

**b.** 1 ½ years **through** 2 years;

**c.** 3 years **through** 5 years; and

**d.** 6 years **through** 12 years.

When a change in a child's age results in his/her movement from one age category to another, the new market rate limit must be applied at the beginning of the first full month following such a change.

**3. Duration of Care**

Market rates also differ according to the number of hours of care that are needed.

**a. Weekly**

The social services district must apply the weekly market rates as the maximum payment limit only when the child care services are provided for **30 or more hours over the course of five or fewer days in a single week**.

**b. Daily**

The social services district must apply the daily market rates as the maximum payment limit only when the child care services are provided for **less than 30 hours over the course of five or fewer days in a single week and for at least six but fewer than twelve hours per day**.

Some providers charge a daily rate for child care services provided for 30 or more hours over the course of five or fewer days in a single week. The daily market rates do not apply in those instances. The district must apply the weekly market rates divided by five as the maximum daily payment limit.

**c. Part-day**

The social services district must apply the part-day market rates as the maximum payment limit when the child care services are provided for **at least three but fewer than six hours per day**. Part-day market rates also must be applied for children who are provided care before and/or after school for less than three hours per day by day care centers or school-age child care programs that do not charge on an hourly basis.

**d. Hourly**

With the exception noted in the definition of the part-day rate, the social services district must apply the hourly market rates as the maximum payment limit when the child care services are provided for **fewer than three hours per day**.

**<u>Weekly Versus Daily Market Rates</u>**

When a child care provider routinely charges non-subsidized parents on a weekly basis

and has not signed a purchase of service contract or other written agreement for payment on a different basis, the social services district must apply the weekly market rate as the maximum payment limit for child care services that are provided for 30 or more hours over the course of five or fewer days in a single week. To determine if care is provided for 30 or more hours over the course of five or fewer days in a single week, districts must use Monday as the start of the weekly period.

When a child care provider routinely charges non-subsidized parents on a daily basis for child care provided for 30 or more hours over the course of five or fewer days in a single week and has not signed a purchase of service contract or other written agreement for payment on a different basis, the social services district must apply the weekly market rate divided by five as the maximum daily payment limit for child care services.

When the child care services are provided for fewer than 30 hours over the course of five or fewer days in a single week, the social services district must apply the daily, part-day or hourly market rates, or a combination thereof, as applicable. The market rate charts reflect daily rates for care that is provided for at least six but less than twelve hours per day, but for less than 30 hours over the course of five or fewer days in a single week.

**Care in Excess of a Weekly or Daily Market Rate Period**

When child care services are provided by a single provider in excess of one weekly or daily market rate period and the provider routinely charges an additional rate for these additional periods, payment for child care services must be based on the actual cost of care up to the applicable market rates. If care is provided for six or seven days in a week, then an additional market rate would apply for the sixth and/or seventh day. If care is provided for 12 hours or more in a day, then an additional market rate (daily, part-day, or hourly) would be applied. When determining the appropriate market rates, districts must use Monday as the start of the weekly period.

An example of care in excess of a daily market rate period is as follows: a provider, whose normal operating hours are 7:00 AM to 5:30 PM, cares for a child from 7:00 AM to 11:00 PM (16 hours) per day, Monday through Friday, and charges an additional amount for care after 5:30 PM. In this example, the maximum payment available is one weekly market rate plus five part-day rates. One weekly market rate applies since care is provided for 30 or more hours over the course of five or fewer days in a single week. Since care is provided for 12 or more hours per day, five part-day market rates also apply for the four additional hours of care above the 12 hours per day provided from 7:00 PM to 11:00 PM, Monday through Friday.

An example of care in excess of a weekly market rate period is as follows: a provider, whose normal operating hours are Monday through Friday 7:00 AM to 5:30 PM, cares for a child from 9:00 AM to 5:00 PM (8 hours) per day, Monday through Friday, and from 7:00 AM to 11:00 AM (4 hours) on Sunday, and charges an additional amount for care after 5:30 PM and for care on the weekend. To determine if care is provided for 30 or more hours over the course of five or fewer days in a single week, start on Monday

and determine the number of hours, if any, that service was provided for five days. Then, determine if any care is provided for any days beyond the five days and determine if the daily, part-day or hourly market rate applies. In this example, the maximum payment available is one weekly market rate plus one part-day market rate for Sunday. One weekly market rate applies because care is provided for 30 or more hours for the five-day period Monday through Friday. Because care is provided for a sixth day in the week, one part-day market rate applies for the four hours of care on Sunday.

**Care Provided for 24 Hours in a Day**

A district has the option to pay for child care services that are needed for 24 hours in a single day. Reimbursement is available to the district if the district has selected this option in its Child and Family Services Plan.

When a single provider provides child care services for 24 hours in a day, the district must determine if care is provided for 30 or more hours over the course of five or fewer days in a single week. Then, the district must evaluate if the care provided is in excess of a weekly or daily market rate period. Payment for the child care services must be based on the actual cost of care up to the applicable market rate.

An example of 24-hour care that leads to a total amount of care in excess of 30 or more hours over the course of five or fewer days in a single week is as follows: a provider, whose normal operating hours are Monday through Friday 7:00 AM to 5:30 PM, cares for a child from 12:00 AM on Monday to 12:00 AM on Tuesday (24 hours) and from 9:00 AM to 5:00 PM (8 hours) per day, Tuesday through Friday. The provider also charges an additional amount for care after 5:30 PM. In this example, the maximum payment available is one weekly market rate plus one daily market rate. One weekly market rate applies since care is provided for 30 or more hours during Monday through Friday. One daily market rate also applies because care is provided for 12 or more hours per day on Monday.

**Care Provided by Multiple Providers**

Where child care services are provided by multiple providers, reimbursement will be made for the actual cost of such services up to the applicable rate for each child care provider used. However, if the combined reimbursement to the multiple providers would exceed one weekly market rate, in order to receive such reimbursement the parent or caretaker must demonstrate that their schedule of employment, or other approved activity, or the special needs of the child necessitate that child care services be arranged with multiple providers. If the social services district determines that the parent or caretaker has not demonstrated that there is a necessity to use multiple providers, reimbursement is limited to the one weekly market rate that is applicable for the type of provider who provides care for the highest number of hours. The social services district will determine how to distribute the reimbursement for the multiple providers.

If the social services district determines that the parent or caretaker has demonstrated that there is a necessity to use multiple providers when the combined reimbursement to the multiple providers would exceed one weekly market rate, reimbursement will be made to each provider for the actual cost of such services up to the applicable market rate for each provider. For example, a provider cares for a child from 7:30 AM to 4:30 PM, Monday through Friday. Another provider cares for that child from 6:00 PM to 9:30 PM on Tuesday and Thursday. The maximum payment available is one weekly market rate for the first provider and two part-day market rates for the second provider.

**Market Rate for Prekindergarten Children in School-Age Child Care Programs**

The market rate that applies for prekindergarten-aged children attending a school-age child care program that has received the appropriate waiver for enrolling such children from OCFS or the New York City Department of Health and Mental Hygiene Day Care Bureau, is the rate for children age 6 through 12 years in the same program.

**Children with Special Needs**

When child care services are provided for a child with special needs, social services districts will receive reimbursement for payments in excess of the applicable market rate up to the statewide limit. Any payments in excess of the market rates must be related to the increased costs associated with meeting the special care needs of the particular child. Detailed requirements relative to the provision of child care services to children with special needs are set forth in 91 ADM-34.

The rate of reimbursement to a provider caring for a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week, irrespective of the type of child care provider used or the age of the child.

The highest applicable market rates in the State are as follows. These rates are also the maximum reimbursable rates for special needs children:

| | |
|---|---|
| Weekly | $340.00 |
| Daily | $ 68.00 |
| Part-Day | $ 45.00 |
| Hourly | $ 18.75 |

**Location of Care**

Whenever child care services are provided by a provider located outside the social services district that authorizes the subsidy, the district must make payments based on the

cost of care, up to applicable market rates, for the county in which the care is provided. The same standard applies to care provided in another state.

**Standard and Enhanced Market Rates for Legally-Exempt Family Child Care Homes and In-Home Child Care Providers**

Districts were notified in 09-OCFS-LCM-07 that the regulations were revised, effective May 15, 2009, to change the enhanced market rate for legally-exempt family and legally-exempt in-home child care providers from a 75 percent differential applied to the market rates established for registered family day care to a 70 percent differential. The standard market rates for legally-exempt family child care and in-home child care providers are based on a 65 percent differential applied to the market rates established for registered family day care.

These differential rates provide incentives to encourage legally-exempt family child care and legally-exempt in-home providers to improve the quality of the care they provide through training. Therefore, the market rates available for legally-exempt child care providers and legally-exempt in-home child care providers were restructured by authorizing a higher rate for providers who annually complete ten or more hours of training and a lower rate for those who do not obtain such training.

The enhanced market rate is available for providers of legally-exempt family child care and legally-exempt in-home child care who have demonstrated to the enrollment agency that they have completed ten or more hours of training annually in the areas set forth in section 390-a(3)(b) of the Social Services Law. The enrollment agency will inform the district of the providers whom they have verified to have completed ten or more hours of training.

When a district is notified by the enrollment agency that a legally-exempt family child care or legally-exempt family in-home child care provider has completed ten or more hours of training, the district must increase the payment amount to the enhanced market rate no later than the month after the district has been notified that the provider completed the ten hours of training, and the district must send the required notice, OCFS/LDSS-4781, Notice of Intent to Change Child Care Benefits, to the parent/caretaker. The provider is eligible to receive the enhanced market rate for a period of 12 months. In order to receive the enhanced market rate beyond the 12-month period, the provider must complete an additional ten or more hours of training and submit documentation to the enrollment agency. The enrollment agency will notify the district if the provider has completed an additional ten or more hours of training.

The regulation also provides flexibility to those social services districts that wish to maintain the enhanced rate at a higher level (up to 75 percent of the registered family day care market rate). A social services district has the option, if it so chooses in the child care portion of its Child and Family Services Plan, to increase the enhanced market rate for eligible legally-exempt family child care and in-home child care categories up to 75 percent of the applicable registered family day care market rate:

- for all providers;
- for those providers who were receiving the enhanced rate on the date of the regulations but only for the remainder of their current one-year enrollment period; or
- for those providers who were receiving the enhanced rate on the date of the regulations for the remainder of the time they remain enrolled and continue to meet the ten-hour annual training requirement.

The standard and enhanced market rates are included in Attachment A.

## Differential Payment Rates

### Nationally Accredited Programs

Districts are allowed to establish differential payment rates for child care services provided by licensed or registered child care providers or programs that have been accredited by a nationally recognized child care organization. Nationally recognized organizations that provide accreditation to regulated child care providers include the National Association for Education of Young Children (NAEYC), National Association for Family Child Care (NAFCC), and National School Age Child Care Association (NSACCA).

Legally-exempt group child care, legally-exempt family child care and legally-exempt in-home child care providers are **not** eligible for the differential payment rate for nationally accredited programs.

### Non-traditional Hours

Districts are allowed to establish differential payment rates for child care services that are provided during non-traditional hours: evening, night or weekend hours. Social services districts may establish a differential rate for non-traditional hours provided by legally-exempt group, legally-exempt family, and legally-exempt in-home child care providers as well as by regulated providers.

### Conditions Pertaining to Differential Payments

If a district chooses to offer a differential payment, the district must indicate this in its Child and Family Services Plan. The information in the plan must include the percentage above the applicable market rate that the district opts to allow for accredited programs and/or for care provided during non-traditional hours, as applicable. The district must also indicate in its Child and Family Services Plan if any restrictions or limitations are placed on providers who may be eligible for any differential payment.

The differential payment rates established by the district may be up to 15 percent higher than the applicable market rates. For example, if the market rate is $200, a differential of

15 percent would raise the market rate up to $230 for eligible programs. Districts must pay a provider who qualifies for a differential payment rate the lower of the rate charged by that provider to the general public for equal care, or the differential payment rate.

The differential payment rates the district sets for accredited programs may be different than the rates it sets for care provided during non-traditional hours. There can only be a total of 15 percent in differential payment to any one provider. For instance, a provider who is nationally accredited and who also provides child care during non-traditional hours is eligible only for a maximum rate of a 15 percent increase above the market rate for the respective type of care and age of the child.

Waivers to Exceed 15 Percent

A district may request a waiver from OCFS to establish differential payment rates that are in excess of 15 percent above the applicable market rate. The district request must show that the 15 percent maximum is insufficient to provide access within the district to accredited programs and/or care provided during non-traditional hours.

## IV. System Implications

This LCM has no Welfare Management System implications.

## V. Required Actions

All previous market rates are superseded by those published in this issuance.

Social services districts are required to use these market rates when determining the payment amounts for all cases that are opened on or after the effective date of the rates, and they must review all currently authorized cases to determine that payment is authorized for the actual cost of care up to the applicable market rate. Reviews must take place as soon as possible, but no later than the next case action or redetermination, whichever comes first.

Recipients of child care subsidies that have paid for child care costs in excess of the previous market rate are eligible for an increased payment from the district (their actual child care charges up to the updated market rate). For example, a parent who has been paying an amount in excess of the previous market rates as of August 1, 2013, would only be eligible for the increased amount as of April 1, 2014. Parents who have documented out of pocket payments for the increased cost must be reimbursed for the out of pocket payment up to the market rate effective April 1, 2014.

Where the new market rates have increased from the previous market rates, providers who can provide documentation of this increase in the cost of care to the private pay families for child care costs in excess of the previous market rate are eligible for an increased payment from the district (their actual child care charges for private pay families, up to the updated market rate). The increased payment is effective the date the

provider begins charging the increased rate, but no earlier than April 1, 2014. For example, a provider who has been charging private pay families an amount in excess of the previous market rates as of August 1, 2013, would only be eligible for the increased amount as of April 1, 2014. However, if the provider increased the rate for the private pay families on or after April 1, 2014, the provider is eligible for the cost of care up to the market rate from the date the provider increased the rate or April 1, 2014, whichever is later, upon proper documentation of this increase.

In instances in which the market rates have decreased from the previous market rates, the district will need to reduce benefits. Please note that when a benefit is reduced due to changes in the market rates, the effective date for the reduction is not retroactive to April 1, 2014. Benefit reductions are to be made prospectively. For those cases in which a district did not make the necessary reductions at the next case action that occurred on or after April 1, 2014, the amount the district paid above the market rate is not reimbursable from State and federal funds.

Whenever the amount of child care benefits changes, social services districts must provide recipients with appropriate notice as required by 18 NYCRR Part 358.

If the provider's rate is in excess of the market rate and the district does not have a contract with the provider, the parent who chooses to continue care with the provider must make up the difference. If the district has a contract to pay a rate that is higher than the market rate, the amount above the market rate is not reimbursable from State and federal funds.

## VII. Effective Date

The effective date of this release is April 1, 2014.

*/s/ Janice M. Molnar, Ph.D.*

Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

**ATTACHMENT A**

## CHILD CARE MARKET RATES

Market rates are established in five groupings of social services districts as follows:

Group 1: Nassau, Putnam, Rockland, Suffolk, Westchester

Group 2: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins, Warren

Group 3: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, Yates

Group 4: Albany, Dutchess, Orange, Ulster

Group 5: Bronx, Kings, New York, Queens, Richmond

MARKET RATES

The market rates established for each group apply to all districts in the designated group.

**GROUP 1 COUNTIES:**
**Nassau, Putnam, Rockland, Suffolk, and Westchester**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $340 | $311 | $285 | $283 |
| DAILY | $68 | $62 | $57 | $57 |
| PART-DAY | $45 | $41 | $38 | $38 |
| HOURLY | $9.50 | $9.25 | $10.00 | $10.00 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $275 | $250 | $250 | $250 |
| DAILY | $56 | $55 | $50 | $50 |
| PART-DAY | $37 | $37 | $33 | $33 |
| HOURLY | $10.00 | $10.00 | $10.00 | $10.00 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $285 | $275 | $275 | $275 |
| DAILY | $60 | $60 | $59 | $55 |
| PART-DAY | $40 | $40 | $39 | $37 |
| HOURLY | $10.00 | $10.00 | $10.00 | $10.00 |

(Group 1 Counties)
SCHOOL-AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $283 |
| DAILY | $0 | $0 | $0 | $57 |
| PART-DAY | $0 | $0 | $0 | $38 |
| HOURLY | $0 | $0 | $0 | $10.00 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 1/2 – 2** | **3 - 5** | **6-12** |
| WEEKLY | $179 | $163 | $163 | $163 |
| DAILY | $36 | $36 | $33 | $33 |
| PART-DAY | $24 | $24 | $21 | $21 |
| HOURLY | $6.50 | $6.50 | $6.50 | $6.50 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $193 | $175 | $175 | $175 |
| DAILY | $39 | $39 | $35 | $35 |
| PART-DAY | $26 | $26 | $23 | $23 |
| HOURLY | $7.00 | $7.00 | $7.00 | $7.00 |

**GROUP 2 COUNTIES: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins and Warren**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $246 | $231 | $215 | $200 |
| DAILY | $52 | $49 | $44 | $40 |
| PART-DAY | $35 | $33 | $29 | $27 |
| HOURLY | $8.50 | $8.25 | $8.50 | $7.00 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $175 | $175 | $170 | $160 |
| DAILY | $40 | $38 | $35 | $32 |
| PART-DAY | $27 | $25 | $23 | $21 |
| HOURLY | $5.50 | $5.75 | $5.75 | $5.75 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $190 | $180 | $175 | $170 |
| DAILY | $38 | $40 | $38 | $35 |
| PART-DAY | $25 | $27 | $25 | $23 |
| HOURLY | $6.00 | $6.00 | $6.00 | $6.00 |

(Group 2 Counties)
SCHOOL-AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $200 |
| DAILY | $0 | $0 | $0 | $40 |
| PART-DAY | $0 | $0 | $0 | $27 |
| HOURLY | $0 | $0 | $0 | $7.00 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 1/2 - 2** | **3 - 5** | **6-12** |
| WEEKLY | $114 | $114 | $111 | $104 |
| DAILY | $26 | $25 | $23 | $21 |
| PART-DAY | $18 | $16 | $15 | $14 |
| HOURLY | $3.58 | $3.74 | $3.74 | $3.74 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $123 | $123 | $119 | $112 |
| DAILY | $28 | $27 | $25 | $22 |
| PART-DAY | $19 | $18 | $16 | $15 |
| HOURLY | $3.85 | $4.03 | $4.03 | $4.03 |

**GROUP 3 COUNTIES:**
**Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, and Yates**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $190 | $180 | $170 | $160 |
| DAILY | $42 | $40 | $38 | $35 |
| PART-DAY | $28 | $27 | $25 | $23 |
| HOURLY | $6.75 | $6.75 | $6.25 | $6.25 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $150 | $140 | $140 | $140 |
| DAILY | $30 | $30 | $30 | $29 |
| PART-DAY | $20 | $20 | $20 | $19 |
| HOURLY | $4.75 | $4.50 | $4.50 | $5.00 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $150 | $150 | $148 | $140 |
| DAILY | $35 | $33 | $32 | $30 |
| PART-DAY | $23 | $22 | $21 | $20 |
| HOURLY | $5.00 | $5.00 | $5.00 | $5.00 |

(Group 3 Counties)
SCHOOL-AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $160 |
| DAILY | $0 | $0 | $0 | $35 |
| PART-DAY | $0 | $0 | $0 | $23 |
| HOURLY | $0 | $0 | $0 | $6.25 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 1/2 - 2** | **3 - 5** | **6-12** |
| WEEKLY | $98 | $91 | $91 | $91 |
| DAILY | $20 | $20 | $20 | $19 |
| PART-DAY | $13 | $13 | $13 | $12 |
| HOURLY | $3.09 | $2.93 | $2.93 | $3.25 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $105 | $98 | $98 | $98 |
| DAILY | $21 | $21 | $21 | $20 |
| PART-DAY | $14 | $14 | $14 | $13 |
| HOURLY | $3.33 | $3.15 | $3.15 | $3.50 |

**GROUP 4 COUNTIES:**
**Albany, Dutchess, Orange, and Ulster**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $252 | $240 | $220 | $211 |
| DAILY | $58 | $55 | $49 | $43 |
| PART-DAY | $39 | $37 | $33 | $29 |
| HOURLY | $8.50 | $8.25 | $8.00 | $8.25 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $200 | $199 | $190 | $188 |
| DAILY | $44 | $40 | $40 | $40 |
| PART-DAY | $29 | $27 | $27 | $27 |
| HOURLY | $7.00 | $7.00 | $7.00 | $7.00 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $225 | $204 | $200 | $200 |
| DAILY | $45 | $45 | $41 | $38 |
| PART-DAY | $30 | $30 | $27 | $25 |
| HOURLY | $8.75 | $8.00 | $8.00 | $8.00 |

(Group 4 Counties)
SCHOOL-AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $211 |
| DAILY | $0 | $0 | $0 | $43 |
| PART-DAY | $0 | $0 | $0 | $29 |
| HOURLY | $0 | $0 | $0 | $8.25 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 1/2 - 2** | **3 - 5** | **6-12** |
| WEEKLY | $130 | $129 | $124 | $122 |
| DAILY | $29 | $26 | $26 | $26 |
| PART-DAY | $19 | $18 | $18 | $18 |
| HOURLY | $4.55 | $4.55 | $4.55 | $4.55 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $140 | $139 | $133 | $132 |
| DAILY | $31 | $28 | $28 | $28 |
| PART-DAY | $20 | $19 | $19 | $19 |
| HOURLY | $4.90 | $4.90 | $4.90 | $4.90 |

**GROUP 5 COUNTIES:**
**Bronx, Kings, New York, Queens, and Richmond**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $330 | $255 | $233 | $215 |
| DAILY | $56 | $53 | $47 | $43 |
| PART-DAY | $37 | $35 | $31 | $29 |
| HOURLY | $15.75 | $17.00 | $15.75 | $10.75 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $175 | $160 | $150 | $150 |
| DAILY | $33 | $32 | $31 | $30 |
| PART-DAY | $22 | $21 | $21 | $20 |
| HOURLY | $16.00 | $12.00 | $13.25 | $13.00 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $200 | $185 | $175 | $175 |
| DAILY | $38 | $37 | $35 | $35 |
| PART-DAY | $25 | $25 | $23 | $23 |
| HOURLY | $18.75 | $16.00 | $13.25 | $14.00 |

(Group 5 Counties)
SCHOOL-AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $215 |
| DAILY | $0 | $0 | $0 | $43 |
| PART-DAY | $0 | $0 | $0 | $29 |
| HOURLY | $0 | $0 | $0 | $10.75 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 1/2 - 2** | **3 - 5** | **6-12** |
| WEEKLY | $114 | $104 | $98 | $98 |
| DAILY | $21 | $21 | $20 | $20 |
| PART-DAY | $14 | $14 | $14 | $13 |
| HOURLY | $10.40 | $7.80 | $8.61 | $8.45 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $123 | $112 | $105 | $105 |
| DAILY | $23 | $22 | $22 | $21 |
| PART-DAY | $15 | $15 | $15 | $14 |
| HOURLY | $11.20 | $8.40 | $9.28 | $9.10 |

## SPECIAL NEEDS CHILD CARE

The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

The highest full time market rate in the State is:

| | |
|---|---|
| WEEKLY | $ 340 |
| DAILY | $ 68 |
| PART-DAY | $ 45 |
| HOURLY | $ 18.75 |

# Memorandum,
# *CSEA Fair Share Payments*

The purpose of this memorandum is to inform Social Services Districts of changes to the collection of CSEA fair share payments.

This page intentionally left blank.

# CSEA Fair Share Payments

1/23/2015

Dear Colleagues,

The information below is being sent as an FYI. Thank you.

**CSEA FAIR SHARE PAYMENTS:**

Beginning in 2012, BICS began deducting Union Dues and Fair Share payments from the child care subsidy checks issued to all providers of family day care, group family day care, legally-exempt in home providers and legally exempt family child care providers outside of New York City (see 11-OCFS – LCM-13). These deductions were then transmitted to CSEA, the union designated to represent these providers. Earlier in 2014, the U.S. Supreme Court issued a ruling (Harris v. Quinn, 2014) which prohibits the collection of fair share payments (payments deducted from those providers who have elected not to become members of the Union). As a system fix is being developed to differentiate between day care providers who are union members from those who aren't, OCFS has begun to manually flag BICS to stop the dues deductions from those providers who are not CSEA members. Accordingly, districts may start seeing instances where providers are not having dues deducted from their subsidy checks. Until the provider has signed on with CSEA, OCFS is assuming the provider does not want to be a CSEA member and there will be no deduction made from their subsidy check.

Providers should contact CSEA if they wish to become a member.

**Michael A. Miller, LMSW**
Children & Family Services Specialist 1
**NYS Office of Children & Family Services - Division of Child Care Services**
52 Washington St., Room 309S, Rensselaer, NY 12144-2834
(518) 408-3395 I Michael.Miller@ocfs.ny.gov

# 11-OCFS-LCM-13

# *Child Care Providers Deduction of Union Dues/Fees In Social Services Districts Other Than New York City*

The purpose of this Local Commissioners Memorandum is to inform social services districts (SSD), other than New York City (NYC), of the implementation of the deduction of union dues/fees from child care subsidy payments made to providers of family day care, group family day care, legally-exempt in-home and legally-exempt family child care.

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 11-OCFS-LCM-13 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | October 28, 2011<br>(Revised January 4, 2012, to update CSEA contact information) |
| **Subject:** | **Child Care Providers Deduction of Union Dues/Fees In Social Services Districts Other Than New York City** |
| **Contact Person(s):** | See Pages 3-4 |
| **Attachments:** | Attachment A: WMS Codes that Include Union Dues/Fees<br>Attachment B: WMS Codes that Exclude Union Dues/Fees |
| **Attachments Available Online:** | These attachments are available online only as part of this policy. They can be accessed with these links:<br>http://www.ocfs.state.ny.us/main/policies/external<br>http://ocfs.state.nyenet/policies/external (OCFS Intranet website) |

## I. Purpose

The purpose of this Local Commissioners Memorandum is to inform social services districts (SSD), other than New York City (NYC), of the implementation of the deduction of union dues/fees from child care subsidy payments made to providers of family day care, group family day care, legally-exempt in-home and legally-exempt family child care.

## II. Background

On October 1, 2010, provisions permitting the unionization of certain child care providers were added to the New York State Labor Law through the enactment of Chapter 540 of the Laws of 2010, which added a new Article 19-c (sections 695-a through 695-g).

The legislation allowed child care providers to organize themselves and select representatives for the purpose of discussing with the state the conditions of their employment, the stability of funding and operation of child care programs, and the expansion of quality child care.

The legislation does not:

1. permit child care providers the right to engage collectively in a strike or to take work action to secure any right or privilege from the State or its agencies;
2. make providers state officers or employees or in any way imply an employee-employer relationship with the State or its subdivisions, including but not limited to the public retirement system, public health insurance program, unemployment insurance, workers compensation, disability coverage, New York civil service law or indemnification under the public officers law;
3. alter any current regulations, policies or procedures for health, safety, discipline, inspection or enforcement applicable to child care providers or programs unless agreed to and enacted;
4. interfere with the existing relationship between consumers and child care providers, including existing rights of parents or guardians to change or terminate a provider's service;
5. interfere with any ability of child care providers or child care provider representatives to meet or correspond with any state agency with regard to any matter of relevance; or
6. create any contractual right or obligations.

In accordance with the provisions of the new law, eligible providers outside of NYC designated the Civil Service Employees Association (CSEA), Local 1000, AFSCME, AFL-CIO (hereinafter known as the "Union" or "CSEA") as their union; it currently remains the designated union.

## III. Program Implications

Implementation of the deduction of union dues/fees from each child care subsidy payment made to eligible providers is scheduled to start with checks produced on January 3, 2012.

The New York State Office of Children and Family Services (OCFS) will notify eligible child care providers who receive child care subsidies in SSD outside of NYC of the New York State Labor Law, and the process for the automatic deduction from provider checks for the union dues/fees. The Benefit Issuance and Control System (BICS) will be updated to provide a means to deduct union dues/fees from each child

care subsidy payment made to eligible providers and report the transfer of amounts to the Union.

Child care providers who do not receive child care subsidies will be notified of the union dues/fees directly by the Union with instruction on how to submit annual union dues/fees.

During each calendar year, BICS will deduct up to two percent (2%) from each child care subsidy payment made to eligible providers up to the annual maximum allowable union dues/fees deduction amount of $690 for each provider. Each provider check will include contact information for CSEA if the providers or SSD have questions about the union dues/fees deductions.

The SSD should pay the collected union dues/fees amount at least once a month. Instruction to the SSD on how to make payments to the Union will be forthcoming.

The following are excluded from union dues/fees deductions:

- Out-of-state child care providers
- Child care providers who reside on the tribal nations
- Authorizations to Parents, who pay the child care providers directly
- Authorizations to Voluntary Agencies which pay the child care provider directly
- Child care providers who have met the annual limit of union dues deducted ($690)
- Child care providers who have been excluded by the State (provider may have paid Union directly)

Instructions on how to exclude this subset of providers from having union dues/fees deducted from their child care subsidy payments will be forthcoming.

To ensure that union dues/fees are being deducted from payments to providers in the applicable modalities of care, SSD must verify that non-service payment lines and purchase of service (POS) lines are coded correctly in the Welfare Management System (WMS). To identify which payment codes in WMS are scheduled to have union dues/fees deducted from child care subsidy payments, SSD should refer to Attachment A: WMS Codes that Include Union Dues/Fees. To identify which payment codes are excluded from union dues/fees deductions, SSD should refer to Attachment B: WMS Codes that Exclude Union Dues/Fees. Both attachments provide the WMS Payment Type and POS Type codes, WMS Mnemonic, and New York State Modalities.

## CONTACT PERSONS

If you have any program questions regarding information contained in this LCM, contact Rhonda Duffney of the OCFS Division of Child Care Services at (518) 474-3775, or email at Rhonda.Duffney@ocfs.state.ny.us.

If you have any fiscal questions regarding information contained in this LCM, contact James Carroll of the OCFS Bureau of Financial Operations at (518) 474-0131, or email at James.Carroll@ocfs.state.ny.us.

If you have WMS Services authorization questions regarding information contained in this LCM, contact Tina McCarthy of the OCFS IT Operations at (800) 342-3727, or email at: Tina.McCarthy@ocfs.state.ny.us.

All calls, inquiries, or communications about union dues/fees that SSD receive from child care providers residing in SSD outside of NYC should be directed to the Union at the following address: **CSEA Membership Department, 143 Washington Ave., Albany, NY 12210;** or by phone at **(877) 483-CSEA (2732);** or by email at **ccptny@cseainc.org.**

*/s/ Janice M. Molnar, Ph.D.*

**Issued By:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care

# 09-OCFS-LCM-07

# *Training Programs for Dislocated Worker, One-time Disbursement Under the American Recovery and Reinvestment Act of 2009, Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers*

The purpose of this release is to advise social services districts of the revised regulations related to the market rates and the maximum reimbursement for expenditures for all child care services funded under the New York State Child Care Block Grant (NYSCCBG) and Social Services Block Grant (Title XX). This LCM contains very important instructions on how payment amounts are determined.

This page intentionally left blank.

**David A. Paterson**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 09-OCFS-LCM-07 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | May 18, 2009 |
| **Subject:** | **Training Programs for Dislocated Worker**<br>**One-time Disbursement Under the American Recovery and Reinvestment Act of 2009**<br>**Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers** |
| **Contact Person(s):** | Rhonda Finlayson: (518) 474-3775<br>E-mail Address Rhonda.Finlayson@ocfs.state.ny.us |
| **Attachments:** | Attachment A: Market Rates for Legally-Exempt Family and In-Home Child Care Providers Including the Enhanced Market Rate Effective May 15, 2009<br>Attachment B: Child and Family Services Plan Amendment |
| **Attachment Available Online:** | N/A |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform social services districts of regulatory changes to Title 18 of the New York State Codes, Rules and Regulations (NYCRR), sections 404.5, 415.2 and 415.9, related to eligibility requirements for child care subsidies funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX funds. The regulations were filed on an emergency basis and are effective as of May 15, 2009.

## II. Background

The child care initiatives recently enacted into State regulation address the expanded need for child care services by families affected by the extensive loss of jobs and employment opportunities as a result of the economic downturn of the State and national economies. The changes to New York State regulations benefit needy families by allowing social services districts more options to serve low-income families.

## III. Program Implications

There are three areas that are impacted by this change in regulation:

### A. Dislocated Worker

The change in regulation to 18 NYCRR section 415.2(a)(3)(vii)(c) expands the categories of families that are eligible if funds are available and if a social services district has listed such families as eligible in its Child and Family Services Plan to address the needs of families where the caretaker(s) is a dislocated worker and is participating in a training program. Social services districts may choose to serve these families to provide safe and affordable child care to enable these caretakers to be trained in various skills, and rejoin the workforce in new employment.

18 NYCRR section 415.2(a)(3)(vii)(c) is added to read as follows:

> (c) a program to train workers in an employment field that currently is or is likely to be in demand in the near future, if the caretaker documents that he or she is a dislocated worker and is currently registered in such a program, provided that child care services are only used for the portion of the day the caretaker is able to document is directly related to the caretaker engaging in such a program. For the purposes of this provision, a dislocated worker is any person who: has been terminated or laid off from employment; has received a notice of termination or layoff from employment that will occur within six months of such notice; or was self-employed but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

### B. One-time Disbursement Under the American Recovery and Reinvestment Act of 2009

The change to regulation 18 NYCRR section 404.5(b)(6)(xx) reflects the federal requirement that one-time payments disbursed under the American Recovery and Reinvestment Act of 2009 to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veterans Disability Compensation or Pension Benefits be excluded as income for determining eligibility for any programs in receipt of federal funds.

18 NYCRR section 404.5(b)(6)(xx) is added to read as follows:

> (xx) one time $250 payments made under the American Recovery and Reinvestment Act of 2009 to Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits and Veterans Disability Compensation or Pension Benefits recipients for 10 months from the date the payment was received, including the month payment was received.

Child care programs funded under the New York State Child Care Block Grant and Title XX are federally funded programs to which this income exclusion applies. Local social services districts may not count the receipt of these payments as income in determining eligibility for child care services for ten months (including the month of receipt).

Local social services districts were previously notified of this income exclusion through a General Information System (GIS) notice, # 09-006, dated March 31, 2009.

### C. Enhanced Market Rate for Legally-Exempt Family and In-Home Child Care Providers

Some social services districts have indicated that, in these difficult economic times, more families could be served, without a negative impact on family access to child care, if the enhanced market rate for legally-exempt family and in-home child care providers were lowered. Currently, there are two child care market rates established for legally-exempt family and in-home child care providers. The enhanced market rate is based on a 75 percent differential applied to the child care market rates established for registered family day care. It reflects an incentive to legally-exempt providers to pursue and obtain a minimum of ten hours of approved training. The other, the standard market rate, is based on a 65 percent differential applied to the child care market rates established for registered family day care and applies to legally-exempt family and in-home child care providers that have not obtained ten hours of training annually. Therefore, to assist the districts to serve more families during these difficult economic times, effective May 15, 2009, the change to New York State regulation establishes the enhanced market rate for legally-exempt family and in-home child care providers at a 70 percent differential applied to the child care market rates established for registered family day care. The adjusted enhanced market rates for legally-exempt family and in-home child care providers, as well as the current market rates for all other types of providers, are provided as Attachment A.

The regulation also provides flexibility to those social services districts that wish to maintain the enhanced rate at a higher level. A social services district has the option, if it so chooses in the child care portion of its Child and Family Services Plan, to increase the enhanced market rate for eligible legally-exempt family child care and in-home child care categories up to 75 percent of the applicable registered family day care market rate:

- for all providers;
- for those providers who were receiving the enhanced rate on the date of the regulations but only for the remainder of their current one-year enrollment period; or
- for those providers who were receiving the enhanced rate on the date of the regulations for the remainder of the time they remain enrolled and continue to meet the ten-hour annual training requirement.

The standard market rate will apply to all other caregivers of legally-exempt family child care and in-home child care.

## IV. Required Actions

A social services district selecting the option in which the caretaker(s) is a dislocated worker participating in a training program and/or to expand the enhanced market rate for legally-exempt family and in-home child care providers must amend its 2007-2009 Child and Family Services Plan. The district must publish a public notice or publish a written press release notifying the public of the plan amendment. The district must complete Attachment B: Request to Amend the 2007-2009 Child and Family Services Plan.

The district's request to amend its plan, along with a copy of the public notice or written press release, should be mailed to: Ms. Amy Ryan, Office of Children and Family Services, Division of Child Care Services, Room 309S, 52 Washington Street, Rensselaer, NY 12144-2796, emailed to Amy.Ryan@ocfs.state.ny.us or faxed to Ms Ryan at (518) 474-9617. A district may implement the amendment after it receives written approval from the Office of Children and Family Services.

Social services districts that have not amended their Child and Family Services Plans to maintain the enhanced market rate for legally-exempt providers must review all currently authorized cases to determine that payment is authorized for the actual cost of care up to the applicable market rate. Reviews must take place as soon as possible, but no later than the next case action or recertification, whichever comes first.

Whenever the amount of child care benefits changes, social services districts must provide recipients with OCFS-LDSS 4781-Notice of Intent to Change Child Care Benefits as required by 18 NYCRR Part 358. In instances in which the market rates have decreased from the previous market rates, the district will need to reduce benefits. Please note that when a benefit is **reduced** due to changes in the market rates, the effective date for the reduction is **not** retroactive to May 15, 2009. Benefit reductions are to be made prospectively.

If the provider's rate is in excess of the market rate and the district does not have a contract with the provider, the parent who chooses to continue care with the provider must make up the difference. If the district has a contract to pay a rate that is higher than the market rate, the amount above the market rate is not reimbursable from State and federal funds.

## V. System Implications

None.

## VI. Effective Date

Changes are effective on May 15, 2009.

**Issued By:**

*/s/ Janice M. Molnar*

Name: Janice M. Molnar
Title: Deputy Commissioner
Division/Office: Division of Child Care Services

**Attachment A:**

**Market Rates for Legally-Exempt Family and In-Home Child Care Providers Including the Enhanced Market Rate Effective May 15, 2009**

**GROUP A COUNTIES:**
**Nassau, Putnam, Rockland, Suffolk, and Westchester**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $314 | $280 | $250 | $262 |
| **Exceptions:** | | | | |
| **Westchester** | **$378** | **$331** | **$274** | **--** |
| DAILY | $70 | $62 | $55 | $54 |
| **Exceptions:** | | | | |
| **Nassau** | **$75** | **$77** | **--** | **--** |
| **Suffolk** | **$80** | **$70** | **--** | **--** |
| **Westchester** | **$75** | **$70** | **$58** | **--** |
| PART-DAY | $47 | $41 | $37 | $36 |
| **Exceptions:** | | | | |
| **Nassau** | **$50** | **$51** | **--** | **--** |
| **Suffolk** | **$53** | **$47** | | |
| **Westchester** | **$50** | **$47** | **$39** | **--** |
| HOURLY | $8.88 | $9.48 | $8.81 | $9.17 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $250 | $250 | $250 | $250 |
| **Exceptions:** | | | | |
| **Putnam** | **$300** | **$275** | **$278** | **--** |
| **Suffolk** | **$260** | **$263** | -- | **--** |
| **Westchester** | **$300** | **--** | **$331** | **--** |
| DAILY | $56 | $56 | $55 | $50 |
| PART-DAY | $37 | $37 | $37 | $33 |
| HOURLY | $8.00 | $8.89 | $7.75 | $8.00 |

**Group A continued**

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $260 | $255 | $250 | $250 |
| **Exceptions:** | | | | |
| **Rockland** | **--** | **--** | **$261** | **--** |
| **Westchester** | **$275** | **$275** | **$266** | **$276** |
| DAILY | $58 | $56 | $55 | $56 |
| **Exceptions:** | | | | |
| **Westchester** | **--** | **$60** | **$60** | **$60** |
| PART-DAY | $39 | $37 | $37 | $37 |
| **Exceptions:** | | | | |
| **Westchester** | **--** | **$40** | **$40** | **$40** |
| HOURLY | $8.00 | $8.00 | $8.00 | $8.00 |

SCHOOL AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $262 |
| DAILY | $0 | $0 | $0 | $54 |
| PART-DAY | $0 | $0 | $0 | $36 |
| HOURLY | $0 | $0 | $0 | $9.17 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $163 | $163 | $163 | $163 |
| DAILY | $36 | $36 | $36 | $33 |
| PART-DAY | $24 | $24 | $24 | $22 |
| HOURLY | $5.20 | $5.78 | $5.04 | $5.20 |

**Group A continued**

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $175 | $175 | $175 | $175 |
| DAILY | $39 | $39 | $39 | $35 |
| PART-DAY | $26 | $26 | $26 | $23 |
| HOURLY | $5.60 | $6.22 | $5.43 | $5.60 |

**GROUP B COUNTIES: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins and Warren**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $210 | $200 | $183 | $177 |
| **Exceptions:** | | | | |
| **Saratoga** | **--** | **$211** | **$196** | **--** |
| DAILY | $50 | $48 | $43 | $38 |
| **Exceptions:** | | | | |
| **Erie** | **--** | **--** | **$44** | **--** |
| **Monroe** | **$55** | **$52** | **$48** | **--** |
| PART-DAY | $33 | $32 | $29 | $25 |
| **Exceptions:** | | | | |
| **Monroe** | **$37** | **$35** | **$32** | **--** |
| HOURLY | $7.74 | $7.78 | $6.89 | $7.74 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $150 | $150 | $145 | $136 |
| **Exceptions:** | | | | |
| **Erie** | **--** | **$161** | **--** | **--** |
| **Ontario** | **$164** | **$169** | **--** | **--** |
| **Saratoga** | **$169** | **$165** | **$160** | **$143** |
| **Schenectady** | **$170** | **$160** | **$150** | **$150** |
| DAILY | $34 | $35 | $31 | $31 |
| **Exceptions:** | | | | |
| **Columbia** | **$35** | **--** | **--** | **--** |
| **Erie** | **$38** | **$38** | **$34** | **$34** |
| **Saratoga** | **$35** | **--** | **--** | **$33** |
| **Warren** | **--** | **--** | **--** | **$33** |
| PART-DAY | $23 | $23 | $21 | $21 |
| **Exceptions:** | | | | |
| **Erie** | **$25** | **$25** | **$23** | **$23** |
| **Saratoga** | **--** | **--** | **--** | **$22** |
| **Warren** | **--** | **--** | **--** | **$22** |
| HOURLY | $5.00 | $5.17 | $5.00 | $4.45 |

**Group B continued**

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $170 | $165 | $160 | $160 |
| **Exceptions:** | | | | |
| **Erie** | **--** | **$175** | **$165** | **--** |
| **Schenectady** | **$195** | **$188** | **$186** | **--** |
| DAILY | $38 | $35 | $35 | $33 |
| **Exceptions:** | | | | |
| **Erie** | **--** | **--** | **--** | **$34** |
| PART-DAY | $25 | $23 | $23 | $22 |
| **Exceptions:** | | | | |
| **Erie** | **--** | **--** | **--** | **$23** |
| HOURLY | $5.00 | $5.14 | $5.14 | $5.00 |

SCHOOL AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $177 |
| DAILY | $0 | $0 | $0 | $38 |
| PART-DAY | $0 | $0 | $0 | $25 |
| HOURLY | $0 | $0 | $0 | $7.74 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $98 | $98 | $94 | $88 |
| DAILY | $22 | $23 | $20 | $20 |
| PART-DAY | $15 | $15 | $13 | $13 |
| HOURLY | $3.25 | $3.36 | $3.25 | $2.89 |

**Group B continued**

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $105 | $105 | $102 | $95 |
| DAILY | $24 | $25 | $22 | $22 |
| PART-DAY | $16 | $17 | $15 | $15 |
| HOURLY | $3.50 | $3.62 | $3.50 | $3.12 |

**GROUP C COUNTIES:**
**Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, and Yates**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $171 | $165 | $155 | $136 |
| **Exceptions:** | | | | |
| **Niagara** | -- | -- | -- | **$138** |
| DAILY | $40 | $37 | $34 | $31 |
| **Exceptions:** | | | | |
| **Broome** | -- | **$40** | **$38** | -- |
| PART-DAY | $27 | $25 | $23 | $21 |
| **Exceptions:** | | | | |
| **Broome** | -- | **$27** | **$25** | -- |
| HOURLY | $5.44 | $5.06 | $5.25 | $5.23 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $135 | $130 | $125 | $125 |
| **Exceptions:** | | | | |
| **Clinton** | -- | -- | -- | **$135** |
| **Oneida** | -- | -- | **$130** | -- |
| DAILY | $31 | $31 | $30 | $30 |
| **Exceptions:** | | | | |
| **Clinton** | -- | -- | -- | **$34** |
| **Sullivan** | -- | -- | -- | **$31** |
| PART-DAY | $21 | $21 | $20 | $20 |
| **Exceptions:** | | | | |
| **Clinton** | -- | -- | -- | **$23** |
| **Sullivan** | -- | -- | -- | **$21** |
| HOURLY | $3.18 | $3.00 | $3.00 | $3.00 |

**Group C continued**

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $140 | $130 | $126 | $125 |
| **Exceptions:** | | | | |
| **Oneida** | **$150** | **$150** | **$135** | **--** |
| **Steuben** | **--** | **--** | **$135** | **$138** |
| **Washington** | **--** | **--** | **$145** | **$130** |
| DAILY | $34 | $33 | $31 | $30 |
| PART-DAY | $23 | $22 | $21 | $20 |
| HOURLY | $4.00 | $4.00 | $4.00 | $4.00 |

SCHOOL AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $136 |
| **Exceptions:** | | | | |
| **Niagara** | **--** | **--** | **--** | **$138** |
| DAILY | $0 | $0 | $0 | $31 |
| PART-DAY | $0 | $0 | $0 | $21 |
| HOURLY | $0 | $0 | $0 | $5.23 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $88 | $85 | $81 | $81 |
| DAILY | $20 | $20 | $20 | $20 |
| PART-DAY | $13 | $13 | $13 | $13 |
| HOURLY | $2.07 | $1.95 | $1.95 | $1.95 |

**Group C continued**

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $95 | $91 | $88 | $88 |
| DAILY | $22 | $22 | $21 | $21 |
| PART-DAY | $15 | $15 | $14 | $14 |
| HOURLY | $2.23 | $2.10 | $2.10 | $2.10 |

**GROUP D COUNTIES:**
**Albany, Dutchess, Orange, and Ulster**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $227 | $210 | $195 | $185 |
| **Exceptions:** | | | | |
| **Dutchess** | **$250** | **$225** | **$197** | **$223** |
| **Orange** | **--** | **$220** | **--** | **--** |
| DAILY | $51 | $47 | $44 | $44 |
| **Exceptions:** | | | | |
| **Albany** | **--** | **$50** | **$45** | **--** |
| PART-DAY | $34 | $31 | $29 | $29 |
| **Exceptions:** | | | | |
| **Albany** | **--** | **$33** | **$30** | **--** |
| HOURLY | $7.75 | $7.46 | $7.24 | $7.34 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $191 | $185 | $175 | $175 |
| **Exceptions:** | | | | |
| **Dutchess** | **--** | **--** | **--** | **$180** |
| **Orange** | **$200** | **$200** | **$200** | **$200** |
| DAILY | $44 | $41 | $38 | $38 |
| **Exceptions:** | | | | |
| **Dutchess** | **--** | **$45** | **$44** | **$45** |
| **Orange** | **--** | **--** | **$40** | **$44** |
| PART-DAY | $29 | $27 | $25 | $25 |
| **Exceptions:** | | | | |
| **Dutchess** | **--** | **$30** | **$29** | **$30** |
| **Orange** | **--** | **--** | **$27** | **$29** |
| HOURLY | $7.00 | $6.00 | $6.00 | $6.10 |

**Group D continued**

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $200 | $194 | $180 | $178 |
| **Exceptions:** | | | | |
| **Orange** | **$225** | **--** | **--** | **$189** |
| DAILY | $45 | $45 | $43 | $40 |
| **Exceptions:** | | | | |
| **Orange** | **$54** | **--** | **$45** | **$44** |
| PART-DAY | $30 | $30 | $29 | $27 |
| **Exceptions:** | | | | |
| **Orange** | **$36** | **--** | **$30** | **$29** |
| HOURLY | $7.50 | $7.00 | $7.00 | $7.00 |

SCHOOL AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $0 | $0 | $0 | $185 |
| **Exceptions:** | | | | |
| **Dutchess** | **--** | **--** | **--** | **$223** |
| DAILY | $0 | $0 | $0 | $44 |
| PART-DAY | $0 | $0 | $0 | $29 |
| HOURLY | $0 | $0 | $0 | $7.34 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $124 | $120 | $114 | $114 |
| DAILY | $29 | $27 | $25 | $25 |
| PART-DAY | $19 | $18 | $17 | $17 |
| HOURLY | $4.55 | $3.90 | $3.90 | $3.98 |

**Group D continued**

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | **Under 1 ½** | **1 ½ - 2** | **3 - 5** | **6-12** |
| WEEKLY | $134 | $130 | $123 | $123 |
| DAILY | $31 | $29 | $27 | $27 |
| PART-DAY | $21 | $19 | $18 | $18 |
| HOURLY | $4.90 | $4.20 | $4.20 | $4.27 |

**GROUP E COUNTIES:**
**Bronx, Kings, New York, Queens, and Richmond**

DAY CARE CENTER

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $370 | $255 | $224 | $185 |
| DAILY | $67 | $67 | $50 | $50 |
| PART-DAY | $45 | $45 | $33 | $33 |
| HOURLY | $17.64 | $17.00 | $16.21 | $12.18 |

REGISTERED FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $160 | $150 | $150 | $141 |
| DAILY | $36 | $39 | $35 | $31 |
| PART-DAY | $24 | $26 | $23 | $21 |
| HOURLY | $16.00 | $11.11 | $13.20 | $13.06 |

GROUP FAMILY DAY CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $175 | $175 | $160 | $150 |
| DAILY | $38 | $38 | $36 | $35 |
| PART-DAY | $25 | $25 | $24 | $23 |
| HOURLY | $16.41 | $15.17 | $11.73 | $17.14 |

SCHOOL AGE CHILD CARE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $0 | $0 | $0 | $185 |
| DAILY | $0 | $0 | $0 | $50 |
| PART-DAY | $0 | $0 | $0 | $33 |
| HOURLY | $0 | $0 | $0 | $12.18 |

**Group E continued**

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
STANDARD RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $104 | $98 | $98 | $92 |
| DAILY | $23 | $25 | $23 | $20 |
| PART-DAY | $15 | $17 | $15 | $13 |
| HOURLY | $10.40 | $7.22 | $8.58 | $8.49 |

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
ENHANCED RATE

| | AGE OF CHILD | | | |
|---|---|---|---|---|
| | Under 1 ½ | 1 ½ - 2 | 3 - 5 | 6-12 |
| WEEKLY | $112 | $105 | $105 | $99 |
| DAILY | $25 | $27 | $25 | $22 |
| PART-DAY | $17 | $18 | $17 | $15 |
| HOURLY | $11.20 | $7.78 | $9.24 | $9.14 |

**SPECIAL NEEDS CHILD CARE**

The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week, regardless of the type of child care provider used or the age of the child.

The highest full-time market rate in the State is:

| | |
|---|---|
| Weekly | $ 378 |
| Daily | $ 80 |
| Part-Day | $ 53 |
| Hourly | $ 17.64 |

**Attachment B:**

**Request to Amend 2007-2009 Child and Family Services Plan**

**District requesting the amendment _____**

Check the option(s) that your district wishes to implement.

**Dislocated Worker**

Our district is requesting an amendment to Appendix G-2, Other Eligible Families if Funds are Available.

☐ If funds are available, our district will serve families where the caretaker(s) is a dislocated worker who is participating in a program to train workers in an employment field that currently is or is likely to be in demand in the near future, if the caretaker documents that he or she is a dislocated worker and is currently registered in such a program, provided that child care services are only used for the portion of the day the caretaker is able to document is directly related to the caretaker engaging in such a program.

A dislocated worker is any person who: has been terminated or laid off from employment; has received a notice of termination or layoff from employment that will occur within six months of such notice; or was self-employed but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

Does your district apply any limitations to the programmatic eligibility? ☐Yes ☐No
If yes, describe eligibility criteria:

This amendment is effective _____. This option cannot be effective prior to May 15, 2009.

_____ _____

Commissioner Signature Date

**Attachment B: continued**

**District requesting the amendment _____**

**Enhanced Market Rate For Legally-Exempt Family and In-Home Child Care Providers**

If a district elects to establish a payment rate that is in excess of the enhanced market rate for legally-exempt family and in-home child care providers, a district must state the percentage above the market rate it proposes to use:

☐ Our district is requesting to increase the legally-exempt enhanced market rate up to_____ percent of the applicable registered family day care market rate. Market rate may not exceed 75 percent of the child care market rates established for registered family day care.

Districts that select the option to increase the legally-exempt enhanced market rate must also select one of the options listed below for which the legally-exempt enhanced market rate applies:

☐ for all legally-exempt family and in-home child care providers that have been approved by the applicable legally-exempt caregiver enrollment agency or by the district for those portions of the district that are not covered by a legally-exempt caregiver enrollment agency as having completed ten or more hours of training annually;

☐ for those legally-exempt family and in-home child care providers who were receiving the enhanced rate on the date of the regulations, but only for the remainder of their current one-year enrollment period; or

☐ for those legally-exempt family and in-home child care providers who were receiving the enhanced rate on the date of the regulations, for the remainder of the time they remain enrolled and continue to meet the ten-hour annual training requirement.

This amendment is effective _____. This option cannot be effective prior to May 15, 2009.

_____ _____

Commissioner Signature Date

Requests to amend the Child and Family Services Plan should be mailed to: Ms. Amy Ryan, Office of Children and Family Services, Division of Child Care Services, 52 Washington Street, Rensselaer, NY 12144-2796, emailed to Amy.Ryan@ocfs.state.ny.us or faxed to Ms. Ryan at (518) 474-9617.

# 92-LCM-138
# *Child Care Certificate Program*

The purpose of 92-LCM-138, *Child Care Certificate Program,* is to provide social services districts with instructions relative to the implementation of a child care certificate program. Note that the use of child care certificates is a federal requirement.

This page intentionally left blank.

```
+-----------------------------------------+
¦      LOCAL COMMISSIONERS MEMORANDUM      ¦
+-----------------------------------------+
       DSS-4037EL (Rev. 9/89)
                                Transmittal No:  92 LCM-138

                                Date:  September 3, 1992

                                Division:  Family and Children
                                           Services
```

TO: Local District Commissioners

SUBJECT: Child Care Certificate Program

ATTACHMENTS: Attachment 1 - List of Attachments (Available on-line)

The purpose of this Local Commissioners Memorandum (LCM) is to provide social services districts with instructions relative to the implementation of a child care certificate program as mandated by the federal Child Care and Development Block Grant (CCDBG) Act of 1990. Only recently the Department received 45 CFR Parts 98 and 99, the final federal rule governing the CCDBG program. After an initial review of these regulations we believe that these preliminary instructions comply with the federal requirements. This LCM is being released in order to provide social services districts with the information needed to develop local procedures for the implementation of the child care certificate program. Subsequent to completion of a thorough examination of the federal regulations, an Administrative Directive relative to the CCDBG child care certificate program will be issued.

The use of child care certificates must be implemented effective October 1, 1992 in order for New York State and social services districts to continue to receive CCDBG funds. These procedures and instructions build on existing systems and incorporate suggestions made by social services districts during the recent series of regional technical assistance meetings conducted by the Department.

For purposes of this LCM, the term parent means any person who is either a parent of an eligible child, a caretaker relative as defined in Section 369.1(b) of Department regulations or a person standing in loco parentis. Person standing in loco parentis means any person who is not related to the

child and who exercises responsibility for the day-to-day care of, and who lives with, a child but who is under no legal obligation to assume such responsibility.

A child care certificate is a document which the social services district issues directly to a parent who is eligible to receive a child care subsidy. It is intended to give parents greater control and flexibility in addressing their child care needs by assisting them to self-arrange care with any child day care provider, caregiver of informal child care or caregiver of legally exempt group child care. When accompanied with information on the full range of options available for child care services and how to identify and access quality child care, the child care certificate provides parents with opportunities to develop self-sufficiency skills.

The Department has developed policies and procedures for the child care certificate program by modifying DSS-3546, Order for Supplies/Services (Voucher) and existing WMS/BICS systems supports. The child care certificate may be used for all income eligible child care programs, regardless of funding source. In order to promote consistency across child care programs and to ease administration of the various subsidies, social services districts are encouraged to make the child care certificates available to all parents who are eligible for child care services. The child care certificate must be available for those parents who are eligible for CCDBG services.

The child care certificate program implemented by the social services district must:

- issue certificates directly to the parents in order to insure parental choice;
- provide certificates with a value commensurate with the actual cost of care up to the applicable market rates;
- allow certificates to be used as flexibly as cash between the parent and eligible providers;
- establish procedures to ensure prompt issuance of the child care certificate and speedy payment for child care services;
- ensure that certificates are available continually to parents as long as CCDBG subsidy funds are available;
- provide a process to enroll providers who are not required to be licensed or registered before issuing payment; and
- facilitate payment to providers.

PARENTAL CHOICE

Effective October 1, 1992, the social services district must inform parents requesting CCDBG services (and other subsidy program services at district option) that they may:

1) choose to have care provided by one of the child day care providers with which the social services district has contracted for the provision of child care services; or

2) request a child care certificate which enables parents to select from a wide range of child care arrangements including care by child day care providers, caregivers of informal child care and caregivers of legally exempt group child care.

Attachment A provides a list and definitions of eligible providers. In order to inform parents of the full range of child care options which are eligible for payment, social services districts may wish to distribute this attachment to all parents who will be subsidized by CCDBG funds. Parents must be given full discretion in selecting or arranging for the purchase of child care services from any eligible provider, including a sectarian caregiver. The case record should document that parents have been apprised of the full range of providers eligible for payment and of their right to elect to use a child care certificate.

The social services district must allow parents to select, and must have a method to pay, any and all providers with whom it does not contract. A contract may not be made a condition of receiving payment from CCDBG subsidies.

Effective October 1, 1992, recipients of CCDBG services also may elect to use caregivers of legally exempt group child care. This category includes:

- a pre-kindergarten or nursery school program for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such pre-kindergarten, nursery school or school-age program is located on the premises or campus where the elementary or secondary education is provided;

- a nursery school or program for preschool-age children operated by a nonprofit agency or organization or a private proprietary agency which provides services for three or less hours per day;

- a summer day camp for children under thirteen years of age operated by a nonprofit agency or organization or a private proprietary agency in accordance with Subpart 7-2 of the State Sanitary Code; and

- a day care center, family day care home or other child care program located on federal property and operated in compliance with federal laws and regulations for such child care services.

Social services districts must provide parents who were in receipt of CCDBG services prior to October 1, 1992 with information regarding their right to select from the full range of eligible child care providers and to receive a child care certificate to assist them in accessing the child care of their choice. Social services districts may wish to use Attachments A, B, and C to provide such information to families currently in receipt of CCDBG services. Parents who wish to change child care providers must be allowed to do so.

Consistent with other programs, social services districts must provide parents with information to assist them in making an informed choice of child care arrangements. The Department has prepared two documents to assist social services districts in providing such information to applicants for child care services. Social services districts are encouraged to distribute Attachment B, Client Rights and Responsibilities, and Attachment C, Parent Letter, to all applicants for child care services.

## CHILD CARE CERTIFICATE PROCEDURES

Whenever a family is determined to be eligible to receive CCDBG services (and other subsidy program services at district option), the social services district must offer parents the choice of utilizing a child day care provider with which it contracts for services or of receiving a child care certificate with which the family may self-arrange care. When a family elects to use a child day care provider with which the social services district contracts, the child must be enrolled with the provider selected by the parent to the maximum extent practical.

When a family elects to use a child care certificate to self-arrange care, the social services district is responsible for preparing a child care certificate for each eligible child in the family. Attachment D is the child care certificate form which must be utilized by all social services districts, exclusive of Erie County and New York City. Since the processing of child care certificates relies on WMS/BICS support, Erie County and New York City must develop and implement a local equivalent child care certificate form, subject to Department approval. Attachment E provides instructions to providers which should be attached to each child care certificate issued.

When preparing the child care certificate, the social services district is responsible for completing the following sections:

- authorized by;
- date;
- date of issue;
- case number, if known;
- authorization number, if known;
- description of supplies or services including: name of eligible child; CIN number, if known; whether care is full-time or part-time; 30 day period for which the certificate is valid; and parent fee, if any, which is to be collected by the provider;

- the applicable full-time, part-time or hourly market rates as set forth in 18 NYCRR 415.9 for the age of the child for each category of child care listed; and
- date that the certificate is to be returned to the social services district by the child care provider.

The social services district may wish to provide parents who indicate that they may be interested in arranging care with a caregiver of informal child care or a caregiver of legally exempt group child care with enrollment forms. Providers then may complete the appropriate enrollment form and return it to the social services district with the child care certificate, thus facilitating prompt payment.

A child care certificate is valid for a 30 day period commencing on the date of issue. During this 30 day period the parent may present the child care certificate to any eligible provider. If the parent is unable to locate care during the 30 day period, the parent may request another child care certificate in order to continue to try to self-arrange care or may ask the social services district to arrange care with one of the child day care providers with whom it contracts.

When a child day care provider, caregiver of informal child care or caregiver of legally exempt group child care agrees to provide services to an eligible child, the parent is responsible for signing the child care certificate in the recipient signature block and giving it and the instruction sheet to the child care provider. The child care provider is responsible for returning the child care certificate, and enrollment form if applicable, to the social services district by the date specified after completing the following sections:

- type of program;
- vendor ID, if known;
- vendor name and address;
- permit/registration ID #;
- days of care provided;
- hours of care/day;
- hours of care/week;
- $ amount week billed;
- claimant signature; and
- date.

Upon return of a child care certificate, and enrollment form if applicable, the social services district will review all submitted items to ensure that the child care provider selected by the parent is eligible to receive payment. The social services district should notify the parent or child care provider immediately if additional information is required in order to determine that such provider is eligible to receive child care subsidy funds. In order to facilitate speedy payment for services, social services districts are encouraged to send information about on-going billing processes to all eligible child care providers as soon as possible after the return of the child care certificate.

PAYMENT RATES

The rate of payment must be the actual cost of care (rate charged by the provider) up to the applicable market rate as specified in Section 415.9 of Department regulations. Payments for legally exempt group child care providers will be based upon the actual cost of care up to the market rate for day care center providers. When care is provided by a child care provider located outside the social services district which authorizes the subsidy, the applicable market rate is the market rate of the county in which the care is located. When a parent who is using a child care certificate selects a child day care provider with which the social services district has a contract for services, the rate established by the contract will apply unless all contractual obligations have been met.

The social services district should review the rate charged by the child care provider to determine that it is within the applicable market rate. If the rate charged by the child care provider exceeds the applicable market rate, the social services district should ensure that both the parent and the child care provider understand what amount the social services district will pay. Parents may elect to pay the amount in excess of the market rate, plus their parent fees, or may wish to locate a different child care provider.

ENROLLMENT PROCEDURES

Each social services district must establish procedures for enrolling a caregiver of informal child care or a caregiver of legally exempt group child care before payment can be made for child care services. Consistent with federal requirements, such enrollment procedures must:

- collect only such information about the caregiver as is determined by the Department to be necessary to make payment;
- facilitate appropriate and prompt payments;
- allow the caregiver to enroll with the social services district after selection by the parent(s); and
- be simple and timely.

Currently, social services districts have established procedures for reviewing "Approval of Informal Child Care" forms for JOBS-related, Employment-related and Transitional Child Care. In response to suggestions from social services districts, as well as changes to State Law and other rules, the Department has revised the two existing forms used for this purpose. The forms also have been renamed as Enrollment Forms. The revised forms will be released under separate cover.

Caregivers of informal child care and caregivers of legally exempt group child care will be considered to be enrolled when review of their enrollment form indicates that such care is not subject to regulation by the Department. Social services districts should employ the same procedures as

currently established for making such determinations for recipients of JOBS-related, Employment-related and Transitional Child Care services.

## SYSTEMS INSTRUCTIONS

Modifications to the WMS Services System will be available October 1, 1992 to allow payment to be made to all eligible providers. In compliance with federal CCDBG requirements, the system also will support monitoring the issuance and return of child care certificates. Whenever a child care certificate is issued to a parent, the social services district will follow the usual conventions to open a WMS/Services case. Attachment F provides detailed systems instructions.

## CLAIMING INSTRUCTIONS

CCDBG program expenditures for child care subsidies made on or after October 1, 1991 should be claimed on the newly designed Schedule H - Non-Title XX - Services For Recipients (DSS-4283). The payments should be claimed on line 2 (Day Care Services for Children), Column 8 (Block Grant Day Care). These claiming instructions are included in Volume 2, Chapter 3, pages 99-106 of the Department's Fiscal Reference Manual.

CCDBG expenditures should continue to be reported on the Schedule G-2B (Summary of Payments for Day Care - Services Authorization) for the Service Types line currently accommodated on the form. Expenditures made under the Services Types currently allowed, but previously excluded from the Schedule, (3F, 3G, 30, 31, 3D, 3E, 3B, 3C), should not be reported on the G-2B until a change is made to the claim form, the BICS Schedule G-2B Report, and to the Automated Claiming System. All CCDBG Day Care costs should be reported on the Schedule H even if they were not reported on the G-2B.

In order to allow the Department to finalize federal reporting of CCDBG expenditures for the federal fiscal year ending in September 1992, all CCDBG expenditures for the period ending September 30, 1992 must be claimed by November 8, 1992.

## ADDITIONAL INFORMATION

BICS operators will generate the modified DSS-3546 form for use as the child care certificate. The BICS Operations Manual will be amended to include instructions for generating such certificates.

Attachment G provides a copy of the letter explaining the child care certificate program which the Department will send to all child day care providers prior to October 1, 1992. Social services districts may wish to send additional information or conduct provider meetings in order to ensure that providers understand local procedures relative to the child care certificate and payment processes.

Please refer to 92 LCM-1 for additional information related to the provision of CCDBG services.

CONTACT PERSON

If you have questions regarding information contained in this LCM or need assistance implementing the child care certificate program, please contact Ms. Dee Woolley at the Bureau of Early Childhood Services at 1-800-342-3715, extension 4-9324 or dial direct (518) 474-9324. Ms. Woolley may be contacted on-line, Userid #89A800.

If you have any questions regarding WMS systems, please contact Mr. Gerald Seeley at 1-800-342-3727, extension 432-2932 or dial direct (518) 432-2932. Mr. Seeley may be contacted on-line, Userid #0FL130.

If you have questions regarding the fiscal areas, please contact:

Upstate - Mr. Roland Levie at 1-800-342-3715, extension 4-7549 or dial direct (518) 474-7549. Mr. Levie also may be contacted on-line, Userid #FM0020.

Metropolitan - Mr. Marvin Gold at (212) 804-1108. Mr. Gold also may be contacted on-line, Userid #OFM0270

Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

Attachment 1

## LIST OF ATTACHMENTS

| | |
|---|---|
| Attachment A | Eligible Providers (Available on-line) |
| Attachment B | Client Rights and Responsibilities (Available on-line) |
| Attachment C | Parent Letter (Available on-line) |
| Attachment D | Child Care Certificate (Not available on-line) |
| Attachment E | Child Care Certificate - Instructions to Providers (Available on-line) |
| Attachment F | System Instructions (Available on-line) |
| Attachment G | Letter to Child Day Care Providers (Available on-line) |

# ELIGIBLE PROVIDERS

Effective October 1, 1992, the following providers are eligible to receive payment for Child Care and Development Block Grant services:

Child day care providers - This category includes:

a. a day care center with a valid license to operate or properly registered to operate;

b. a family day care home properly registered to operate;

c. a group family day care home with a valid license to operate;

d. a public school providing care to preschool-age children or as part of a before-school or after-school program for children in accordance with a contract entered into between a public school district and a social services district; and

e. a school-age child care program properly registered to operate.

Caregivers of informal child care - This category includes:

a. care for one or two children provided outside the child's home in the residence of a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for employment of minors as set forth in Article 4 of the State Labor Law;

b. care for more than two children for less than three hours per day provided outside the child's home in the residence of a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for employment of minors as set forth in Article 4 of the State Labor Law;

c. care provided by a relative within the third degree of consanguinity to the parent(s) or step-parent(s), specifically:

   - grandparents of the child;
   - great grandparents of the child;
   - aunts and uncles of the child, including spouses of the aunts or uncles;
   - brothers and sisters of the child;
   - great-aunts and great uncles of the child, including spouses of the great-aunts or great-uncles;
   - first cousins of the child, including spouses of the first cousins; and
   - great-great grandparents of the child; and

(OVER)

d. child care furnished in the child's own home by a caregiver who is chosen and monitored by the child's caretaker relative and who is at least 18 years of age or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the State Labor Law; provided , however that the caretaker relative must provide the caregiver with all employment benefits required by State and/or federal law and if such a caregiver furnishes in-home child care for more than four hours a day and more than four days a week, the caretaker relative must pay the caregiver at least the minimum wage set forth in Article 19 of the State Labor Law.

Caregivers of legally exempt group child care - This category includes:

a. a pre-kindergarten or nursery school program for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such pre-kindergarten, nursery school or school-age program is located on the premises or campus where the elementary or secondary education is provided;

b. a nursery school or program for preschool-age children operated by a nonprofit agency or organization or a private proprietary agency which provides services for three or less hours per day;

c. a summer day camp for children under thirteen years of age operated by a nonprofit agency or organization or a private proprietary agency in accordance with Subpart 7-2 of the State Sanitary Code; and

d. a day care center, family day care home or other child care program located on federal property and operated in compliance with federal laws and regulations for such child care services.

Dear Parent or Caretaker Relative:

Choosing care for your child is an important decision. This letter has information which might help you make a good choice for you and your child.

Many types of programs provide day care in New York State. The State Department of Social Services regulates some of these programs. Programs the State regulates must meet certain standards. These standards cover areas such as: program content, nutrition, safety, and appropriate discipline to name a few. Generally a program must meet the State's standards if it cares for 3 or more children for more than 3 hours a day. Most day care programs serve children from 6 weeks to 12 years old. The five types of day care programs which the State regulates are:

- Day Care Centers
- Family Day Care Homes
- Group Family Day Care Homes
- School-Age Child Care Programs
- Small Day Care Centers

There are other types of settings which provide child care that the State does not regulate. These settings are legal forms of child care and may meet your needs. This category includes friends, neighbors or relatives who care for 1 or 2 children in their own home or who care for your child in your home. There are also group child care programs such as nursery schools and programs operated by private schools or academies which are not regulated by the State.

Here are some hints to keep in mind when you are choosing a day care provider for your child.

1. Learn as much as you can about day care in your community. Talk to friends, neighbors, and relatives with children. You may wish to choose a provider close to where you live or close to where you work or go to school. The child care provider you select does not have to be located in the county where you live. The amount the county department of social services is able to pay may differ when the care is not located in the county where you live. Ask your caseworker how much they can pay if you select a provider in a different county.

2. Visit as many day care programs as possible. Visit when the children are there.

3. Ask the people in charge any questions you may have. Find out how they will handle situations which concern you. Has the provider been convicted of a crime or been the subject of an indicated report of child abuse and maltreatment?

4. See how the caregivers act with the children. Do they show warmth and understanding toward the children? Do they pay attention to all the children?

(OVER)

5. Observe the children. Are there lots of activities and things for children to do?

6. Make sure the program site seems safe to you. Are there any visible hazards? Is there enough room for indoor and outdoor activities? Is there enough equipment and play materials for all the children?

7. Visit and observe as much as you can once your child has started a program. Talk to your child's caregiver. Ask questions and take part in the program.

8. Listen to your child. Does he or she like to go to the program? If your child is unhappy, talk to the caregivers.

9. Keep in touch with the parents of the other children in care.

10. Get feedback from the provider. Does the provider give you regular updates about how your child is doing? Does the program encourage your questions and visits?

There is no absolute guarantee of quality in any child care setting. AS A PARENT, YOU ARE THE KEY TO QUALITY DAY CARE. You have the right to drop in to see your child, observe the program, inspect the child care areas, review written records regarding your child and to speak with the caregivers at any time. You will see the provider more than anyone else. You know your child best. You will probably be the first to know when things are not going well. Whatever type of child care setting you select, it is your responsibility to monitor the quality of care that your child receives.

If you have a question or concern, talk to the caregiver. If you think there is a violation of the regulations, you can call the State Social Services Regional Office nearest you or the Statewide complaint line (1-800-732-5207). The State Department of Social Services set up this line to respond to complaints about day care programs.

Abuse or maltreatment of children in day care programs is rare. However, it can happen. If you have a concern, talk to the child care provider. Compare notes with other parents. If you are still concerned, report your concern to the New York State Child Abuse and Maltreatment Register at 1-800-342-3720. In Onondaga County, call (315)-422-9701, and in Monroe County call (716)-461-5690. These hotlines operate 24 hours a day, seven days a week.

Choosing a day care provider is an individual matter. Each family has different needs. Trust your judgement and feelings. If you need help finding day care, ask your caseworker for help.

Sincerely,

_____
_____ County Department
of Social Services

# CHILD CARE CERTIFICATE
## INSTRUCTIONS TO PROVIDERS

The accompanying child care certificate verifies that the county department of social services has determined that the identified child is eligible to receive a child care subsidy. You may accept this child care certificate at any time during the service period indicated in the center block. The county department of social services will make child care payments for the amount you charge other families, less any parent fee indicated, up to the market rate indicated for the type of program you operate. The parent will pay the parent fee directly to you.

If you currently contract with the county department of social services, the rate established by your contract will apply unless your contractual obligations have been met.

In order to receive payment for care you have provided, or will be providing, you must return the child care certificate to the county department of social services after completing the following sections:

1. Vendor ID If you have been paid by the county department of social services in the past you have been issued a vendor identification number. Enter that number, if known.

2. Vendor Name and Address Fill in your program's name and address where the program is located. If you are a family day care, group family day care or informal child care provider and do not have a name for your program fill in your own name and address.

3. Permit/Registration ID #: This is the number of your State license or registration. If you are not a regulated child care provider, you must complete and return an enrollment form with the child care certificate. If you do not have an enrollment form, call _____ at _____.

4. Check Appropriate Category Check the line that indicates the type of child care you provide. Caregivers of legally exempt group child care should check the day care center line. The market rate following the category you check is the maximum amount that the county department of social services will pay for the care you provide.

5. Check whether services have or will be provided

6. Days of Care Provided List the days of the week on which care has been, or will be, provided (e.g., Monday, Tuesday, Thursday).

7. Hours of Care/Day Identify how many hours of care have been, or will be, provided each day (e.g., 11 hours per day).

(OVER)

8. Hours of Care/Week Identify how many hours of care have been, or will be, provided for the total week (e.g., 44 hours).

9. $ Amount Week Billed Fill in the amount that you will be charging per week for the amount of care previously listed.

If services have been provided during the service period indicated you must complete, sign and date the statement at the bottom of the child care certificate.

If services have not been provided during the service period indicated you should enter a zero (0) in the statement at the bottom of the child care certificate and sign and date it.

Keep the yellow copy of the child care certificate for your records. Return all other copies to the county department of social services by the date indicated.

Upon receipt of the completed child care certificate, and enrollment form if care is to be provided by a caregiver of informal child care or a caregiver of legally exempt group child care, the county department of social services will process payment for services already provided and will send you information regarding how on-going payments will be made.

If you need assistance in completing the child care certificate, please call:

_____

_____

_____

# SYSTEM INSTRUCTIONS:
# CHILD CARE AND DEVELOPMENT BLOCK GRANT

Open a WMS/Services case following the usual conventions. The Direct Service Type must be 03 with or without a suffix code. To process a child care certificate and authorize payment three POS lines are required.

Line #1 (To be completed at the time the child care certificate is issued). Complete the POS line as follows:

LN - Line number of Day Care recipient.

Service Type - A valid Day Care Service Type between 30 and 37 or 3A and 3G, with or without a suffix.

POS Authorization Period - Up to 30 day period covered by the certificate.

Rate Amount - Maximum certificate amount (center rate for the 30 day period authorized).

Rate Period - S (Single Issue).

Maximum Time Units per Frequency Interval (MTU/FI) - Leave blank.

PUB/PRI - 2 (public) or 3 (private).

PSS - 01 (new)

Provider/Vendor ID - leave blank.

Provider Name - Enter eight character certificate number in V9999999 format, in first eight positions of the field (left justify).

Provider Address - leave blank.

Fees - system generated.

When the child care certificate is returned by the provider, change the PSS code on line #1 from 01 to 03. This will delete the original certificate line. PSS code 04 should be used only if the original certificate line is in error.

Complete line #2, the initial payment line, as follows:

LN - Line number of Day Care recipient.

Service Type - Valid Day Care Service Type (30-37 or 3A-3G) with or without a suffix.

POS Authorization Period - Up to 30 day period covered by certificate.

Rate Amount - Actual numeric dollar amount.

Rate Period - S (Single Issue).

MTU/FI - leave blank.

PUB/PRI - 1 if direct payment to recipient; 2 or 3 if vendor payment.

PSS - 01 (new)

Provider/Vendor ID - For PUB/PRI entry of 2 or 3, enter eight character ID for vendor payment; leave blank for direct payment to recipient.

Provider Name - Enter eight character certificate number in V9999999 format, in first eight positions of the field (left justify).

Provider Address - leave blank.

Fees - system generated.

Complete the subsequent payment line as follows:

LN - Line number of Day Care recipient.

Service Type - 30-37 or 3A-3G with or without a suffix.

POS Authorization Period - Remainder of authorization period.

Rate Amount - Actual numeric amount.

Rate Period - M (Monthly).

MTU/FI - Months per authorization.

PUB/PRI - 1 if direct payment to recipient; 2 or 3 if vendor payment.

Provider/Vendor ID - Leave blank for direct payment to recipient; enter actual ID for vendor payment.

Provider Name - leave blank for direct payment to recipient; entry is optional for vendor payment.

Provider Address - leave blank for direct payment to recipient; optional for vendor payment.

Fees - system generated.

NOTES:

1. When authorizing payment for a caregiver of legally exempt group child care use the day care center POS codes, either full-time (36) or part-time (37) as applicable.

2. All vendors who will receive payment via the WMS authorization must be loaded onto the local BICS file.

3. Fees are system generated and apply only to the first POS line for each services family unit.

# LETTER TO CHILD DAY CARE PROVIDERS

Dear Child Day Care Provider:

Effective October 1, 1992 New York State is implementing a child care certificate program as mandated by the federal Child Care and Development Block Grant (CCDBG) Act of 1990. This program must be implemented in order for New York State to continue to receive federal CCDBG funds. The purpose of this letter is to explain how the child care certificate program may affect you as a child day care provider.

When the child care certificate program is implemented, the county department of social services must inform families who are determined eligible to receive child care subsidies through the CCDBG (and other programs at county option) that they may:

1) choose to have care provided by one of the child day care providers with which the county department of social services has contracted for the provision of child care services; or

2) request a child care certificate which enables the parents to select from a wide range of child care arrangements including care by child day care providers, caregivers of informal child care and caregivers of legally exempt group child care.

Parents must be given full choice in selecting or arranging for the purchase of child care services from any of the child care providers listed above, including sectarian providers. In addition, the county department of social services must provide parents with information to assist them in making an informed choice of child care arrangements.

Parents who request a child care certificate will be given one certificate for each child who needs care. The parent may give the child care certificate to the child care provider selected to care for the child. The child care certificate is your assurance that the county department of social services has determined that the child named is eligible to receive a child care subsidy and that the county department of social services will be making payments for services provided within the limits indicated. You may accept child care certificates that have been issued by any county. If you accept a certificate from another county the market rate limit for the county in which you are located will be applied.

Consistent with licensing and registration regulations and federal CCDBG requirements, the certificate program requires that all child care providers must allow parents unlimited and on demand access to their

children, to written records regarding their children, and to the providers caring for their children during the normal hours of operation and whenever children are in the provider's care. In addition, parents have the right to inspect on demand during the program's hours of operation any area of the child care facility to which the child has access or which could present a hazard to the health or safety of the child.

A sample child care certificate and the instructions to providers are enclosed. The enclosed samples will be used in all areas of the state except Erie County and New York City. While the actual form and instructions for completion used in these two areas will vary from the samples, all the requirements previously discussed apply to the child care certificate programs which these counties implement.

When a parent presents you with a child care certificate and you accept the child for enrollment in your program, you should complete the sections outlined in the instruction sheet and return by the date indicated to the county department of social services which issued it.

If you have questions regarding how the child care certificate program will be implemented in your county, please call the day care unit of your county department of social services.

The child care certificate program provides the opportunity to increase the child care options that are available to low income families. We look forward to working with you to assure that quality child care services are available for all children in New York State.

Sincerely,

Jo Ann Friedell, Director
Bureau of Early Childhood Services

# 14-OCFS-LCM-04
# *Child Care Subsidy Fraud Regulations*

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (districts) of the regulatory changes to Part 415 of the Rules and Regulations of the State of New York (NYCRR) for child care subsidies funded though the New York State Child Care Block Grant (NYSCCBG) and the federal Social Security Act.

The Child Care Subsidy Fraud Regulations, which went into effect October 5, 2011, promote the fiscal integrity of the child care subsidy program by establishing a clear, regulatory basis for holding child care providers accountable for committing fraud.

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 14-OCFS-LCM-04 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care Services |
| **Date:** | May 30, 2014 |
| **Subject:** | **Child Care Subsidy Fraud Regulations** |
| **Contact Person(s):** | Rhonda Duffney (518) 474-9454<br>Rhonda.Duffney@ocfs.ny.gov |
| **Attachments:** | Attachment A: Desk Aid for Administrative Review Process for Child Care Subsidy Claims<br>Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement<br>Attachment C: Deferred Claim Review-Claims are Reimbursable<br>Attachment D: Preliminary Review Report-Inaccurate Claim(s) Submitted<br>Attachment E: Final Review Report-Inaccurate Claim(s) Submitted<br>Attachment F: Final Review Report-Inaccurate Claim(s) Unsubstantiated<br>Attachment G: Final Determination-False Claim(s) Substantiated<br>Attachment H: Final Determination-False Claim(s) Unsubstantiated<br>Attachment I: Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement<br>Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement<br>Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care |
| **Attachment Available Online:** | No |

## I. PURPOSE

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (districts) of the regulatory changes to Part 415 of the Rules and Regulations of the State of New York (NYCRR) for child care subsidies funded though

the New York State Child Care Block Grant (NYSCCBG) and the federal Social Security Act.

The Child Care Subsidy Fraud Regulations, which went into effect October 5, 2011, promote the fiscal integrity of the child care subsidy program by establishing a clear, regulatory basis for holding child care providers accountable for committing fraud.

1. 18 NYCRR § 415.4(c)(9) establishes a 30-day timeframe for districts to review and determine whether to allow, disallow, or defer a claim for reimbursement to an eligible provider of subsidized child care and specifies the circumstances when a deferral or disallowance can be made.
2. 18 NYCRR § 415.4(h)(2) delineates the circumstances under which a district may disqualify licensed, registered, and enrolled legally-exempt child care providers from receiving subsidy funds; allows for a district to establish an administrative procedure for internally reviewing claims and imposing a disqualification when the district has determined an eligible provider has submitted false claims; establishes periods of disqualification during which child care providers are ineligible to receive child care subsidies; and requires a district to inform the appropriate New York State Office of Children and Family Services (OCFS) child care regional office of disqualified licensed or registered child care providers, and appropriate legally-exempt enrollment agencies of disqualified enrolled legally exempt providers.
3. 18 NYCRR § 415.4(h)(3) allows districts to make announced or unannounced inspections of the records or premises of any provider of subsidized child care in accordance with a plan approved by OCFS.
4. Subparagraphs were added to 18 NYCRR § 414, 416, 417, 418-1 and 418-2 to clarify the ability of OCFS to revoke/deny renewal of the registrations/licenses of providers who file false child care subsidy claims with districts by clearly stating that all registered school age child care programs, licensed group family day care homes, registered family day care homes, licensed day care centers, and registered small day care centers that accept direct and indirect payments from a district or a payment from a parent or caretaker for providing subsidized child care must comply with all relevant requirements of the Child Care Subsidy Program.
5. 18 NYCRR § 415.12 describes the responsibilities that are applicable to all eligible providers of subsidized child care services. It provides the basis for OCFS to take enforcement action against a licensed or registered provider who is not in compliance with the Child Care Subsidy Program regulations; requires providers of subsidized child care to maintain current and accurate attendance records for each child and certify to the accuracy and truthfulness of information and documentation provided to a district; and reiterates the district's right to act on false or fraudulent claims by deferring or disallowing payment on claims, referring a provider for criminal prosecution, and/or making a referral to OCFS for the revocation of a provider's registration or license to operate a child care program.

## II. BACKGROUND

OCFS has oversight responsibilities for the provision of child care subsidies funded under the NYSCCBG for over 223,000 children as of Federal Fiscal Year (FFY) 2013. It also promotes the development of children in a safe, caring, and healthy environment through licensure and registration of over 19,000, child day care programs and the annual enrollment of approximately 39,000 legally-exempt child care providers.

In recent years, concerns regarding program integrity prompted OCFS to take strong steps to minimize waste, fraud, and abuse in the Child Care Subsidy Program and maintain the health and safety of children in child care. According to national estimates, anywhere from 10% to 40% of child care subsidy dollars are spent fraudulently. In October 2010, OCFS hosted a Roundtable Discussion seeking to identify strategies to prevent and eliminate fraud in the Child Care Subsidy Program and to maximize the efficient use of limited child care funds. The roundtable was attended by more than 90 local district staff, fraud investigators, local county prosecutors, child care advocates, and others who discussed what changes were needed in current law, regulations, policies, and procedures, and what would be needed to make those changes. There was consensus among the stakeholders that districts need the regulatory authority to hold fraudulent providers accountable.

## III. PROGRAM IMPLICATIONS

It is important to note that nothing contained within this guidance document will diminish the authority of the districts to refer a matter to the appropriate district attorney or law enforcement agency.

OCFS recommends that districts establish timeframes for providers to submit claims, include these timeframes in local written policies, and notify child care providers and parents in writing of these timeframes. OCFS also recommends that districts establish a local payment policy and make every effort to issue a payment to the provider for child care services within 30 days from the date a child care claim is submitted to the district.

Contained in this LCM are model notices that may be used to defer claims, inform providers of various decisions made in the Administrative Review process, and inform child care provider's and parents of child care provider's disqualification. Districts may elect to use these notices or develop their own notices. Also attached to this LCM is a Desk Aid that provides a flow chart of the Administrative Review Process for Child Care Provider Disqualification, see Attachment A: Administrative Review Process for Child Care Providers Disqualification.

### A. District Determinations on Payment of Provider Claims for Reimbursement

1) Districts have up to 30 days from receipt of a claim for reimbursement from an eligible provider to review the claim and make a payment determination to allow, defer, or disallow a payment. An eligible provider is a licensed, registered, or

enrolled provider who has been found to meet the criteria to participate in the Child Care Subsidy Program. "Eligible provider" is defined in 18 NYCRR § 415.1(g).

2) A district may **defer** – that is, postpone the payment determination for – a claim(s) only in the three following circumstances:

   a) A federal, state, or local government agency has recommended that the district postpone payments, and informed the district that the district is at risk of making payments for services that were not provided in accordance with applicable state regulations. Examples of agencies whose recommendation may be considered include, but are not limited to: NYS OCFS, NYS Office of the State Comptroller, U.S. Government Accountability Office (GAO), New York State Department of Health, applicable county Comptroller, etc. OCFS recommends that the district send a notification of deferral of payment to the implicated child care provider while it completes a more intensive review and makes a determination within 30 days of the date postmarked on the notification of deferral as to whether it will allow or disallow the payment(s) in question.

   b) The district has conducted an initial review of the claim and found inaccuracies that warrant a more detailed review. OCFS recommends that the district send a notification of deferral of payment to the implicated child care provider while it completes a more intensive review and makes a determination within 30 days of the date postmarked on the notification of deferral as to whether it will allow or disallow the payment(s) in question.

   c) The district has been notified of the existence of a pending criminal charge against the provider involving fraud. "Pending" means that there are open criminal charges against the provider that have not yet reached disposition. In such instances, the district can defer its determination about payment until the charges have reached disposition.

   When a district defers a claim, regardless of the circumstances, they must notify the provider, in writing, of the claims that have been deferred (see Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement). The district should conduct a more intensive review and inform the affected provider of the district's determination within the 30-day timeframes unless there is a pending criminal charge (see Attachment C: Deferred Claim Review-Claims are Reimbursable or Attachment D: Preliminary Review Report-False Claims Submitted).

3) In accordance with 18 NYCRR § 415.4(c)(9)(iii), districts may **disallow** claims for reimbursement for services provided to children receiving a subsidy for the time period in which OCFS has determined that:

   a) A licensed or registered provider is found to be operating or has operated over its licensed or registered capacity. A district may disallow subsidy payments for the number of children over the provider's licensed or registered capacity, but this number shall not exceed the total number of subsidized children during the period of time the program was overcapacity. For example, a program has a licensed capacity of 50 children. After investigation, it was determined that the program is caring on a full time basis for 55 children, which is five children over its licensed

capacity. Six of the 55 children are subsidized. In this example, the district may choose to disallow payments for five of the six children at the highest payment rate. The disallowance may be held from future subsidy payments.

b) An enrolled legally-exempt family child care or in-home child care provider is caring for, or has cared for, more children than the limits defined in 18 NYCRR § 415.1(h), which stipulates that informal child care does not include members of the child's or caretaker's public assistance unit, nor does it include other adult members of the child care service unit except the child's sibling. For example, an enrolled legally-exempt in-home child care provider who is in receipt of Temporary Assistance (TA) is receiving child care subsidy payments to care for her sibling and an unrelated infant. After an investigation, it was determined that the provider and the provider's sibling are in the same TA filing unit and therefore the provider is not eligible to receive child care subsidy payments to care for her sibling. In this example, the district would disallow payment for the provider's sibling. The provider's sibling may continue to receive child care subsidy as long as the care is provided by an eligible provider who is not a member of the TA filing unit

c) An enrolled legally-exempt provider is found to be operating or operated, a child care program which was required to be licensed or registered, without obtaining such license or registration. For example, an enrolled legally-exempt family child care provider is caring for two siblings; the mother of the two children now brings her infant to this provider. After an investigation, it was determined that the enrolled legally-exempt provider was caring full-time for all three children. In this example, the district may choose to disallow payments for one of the three children at the highest payment rate.

**B. Reasons for District Disqualification of Providers from Receiving Child Care Subsidy Payments**

1) A district may **disqualify** licensed, registered, and enrolled legally-exempt child care providers from receiving subsidy funds if any of the following circumstances occurs:

a) The provider is criminally convicted of child care subsidy fraud.

b) The provider is found to be civilly liable for child care subsidy fraud.

c) The provider has voluntarily admitted, in writing, to filing a false claim for reimbursement for child care services.

d) The provider has been disqualified from the Child and Adult Care Food Program by the New York State Department of Health or its sponsoring agency for submission of false information on the application, submission of a false claim for reimbursement, or failure to keep required records.

e) The provider has failed to comply with the terms of a repayment plan with the district.

f) The provider has a conviction of any activity that occurred in the past seven years that indicated a lack of business integrity. For some examples, see articles from the New York State Penal Law: Article 156, Offenses Involving Computers;

Article 158; Welfare Fraud; Article 170, Forgery; Article 175, False Written Statements; Article 176, Insurance Fraud; Article 177, Health Care Fraud; Article 180, Bribery; Article 185, Frauds on Creditors; Article 187, Residential Mortgage Fraud; Article 190, Other Frauds; Article 195, Official Misconduct; Article 200, Bribery Involving Public Servants.

g) The provider has been found by a district, after completion of an Administrative Review in accordance with 18 NYCRR § 415.4(h)(2)(ii), to have submitted a false claim(s) to a district for reimbursement. (See below: Administrative Review by the District)

## C. Administrative Review by the District for Child Care Provider Disqualification

A district may conduct an ***Administrative Review*** of a provider's claims submitted for reimbursement to determine the accuracy of the information contained in the claims. If, after the completion of the Administrative Review, the district has determined that the provider submitted a false claim(s), the district may disqualify the provider from providing subsidized child care.

The Administrative Review must include the following:

1) ***Review of Claims and/or Payments:*** The district will conduct a review of the claims and/or payments and any other information or documentation obtained by the district to determine the accuracy of the information contained in the claims. If the district determines that deferred claims are accurate the district will reimburse the claims and send written notice to the provider (See Attachment C: Deferred Claim Review-Claim(s) are Reimbursable).

2) ***Preliminary Review Report Issued to the Provider:*** If after a review of the claims and/or payments, a district determines that a provider submitted inaccurate information in the claims, then a Preliminary Review Report must be prepared by the district and sent to the child care provider that is the subject of the Administrative Review for a response (see Attachment D: Preliminary Review Report-Inaccurate Claim(s) Submitted). The district must inform the child care provider of the following:

   a) The district has reviewed claims and made a preliminary determination that inaccurate claims for payment have been submitted.

   b) The dates and hours of the child care services, the amount billed, and the names of the affiliated subsidy eligible child(ren) the district determined as inaccurate.

   c) The child care provider has 20 days, from the date postmarked on the Preliminary Review Report to respond.

   d) The child care provider may respond by presenting written evidence and arguments that the provider believes refute the findings of the Preliminary Review Report or the child care provider, may request in writing, a Formal Review by the

district, which allows the provider, or his or her designee, to present evidence and arguments, in person, in support of his/her position.

3) ***Provider's Response to Preliminary Review Report:*** There are three possible provider responses to a Preliminary Review Report: provider non-response, provider responds in writing, provider requests Formal Review.

   a) *No Response to Preliminary Review Report from Provider—Preliminary Review Report becomes Final Determination:* If the district does not receive a written response from the provider who is the subject of the Administrative Review within 20 days from the date of the postmark of the Preliminary Review Report, this report becomes the basis for the district to issue the Final Determination (see Attachment G: Final Determination-False Claim(s) Substantiated). Such Final Determination may be the basis for a district to disqualify a provider from providing subsidized child care. If a provider fails to respond to the Preliminary Review Report, the provider cannot request a Formal Review after the Final Determination has been made.

   b) *Provider Responds to the Preliminary Review Report in Writing:* If the district receives a response from the child care provider, who is the subject of the Administrative Review, within 20 days from the date of the postmark of the Preliminary Review Report, the district:

      i. must evaluate the evidence and arguments presented in writing or in person by the provider;

      ii. make appropriate changes to the Report based on the evidence and arguments presented by the provider, before issuing the Final Review Report (see below Final Review Report).

   c) *Provider Responds to the Preliminary Review Report with a written request for a Formal Review:* If the district receives a written request for a Formal Review within 20 days from the date of the postmark of the Preliminary Review Report, the district must:

      I. conduct a Formal Review within 30 days of receipt of the request;

      II. notify the provider, in writing, five or more days in advance of the Formal Review date;

      III. allow a provider, or his or her designee, to present evidence and arguments, in person, in support of the provider's position;

      IV. evaluate the evidence and arguments presented in writing or in person by the provider and or his or her designee;

      V. make appropriate changes to the findings before issuing the Final Determination.

4) ***Final Review Report Issued to the Provider:*** A Final Review Report must be sent to the child care provider that is the subject of the Administrative Review and it must describe how the district reached its determination (see Attachment E: Final Review

Report – Inaccurate Claim(s) Submitted and Attachment F: Final Review Report – Inaccurate Claim(s) Unsubstantiated).

a) The district must state what reliance, if any, it placed upon documents/arguments received from the provider in opposition to the district's findings, including any additional documentation provided by the provider in response to the Preliminary Review Report.

b) A child care provider, upon receipt of a Final Review Report, must be given 10 days from the date of the postmark of the Final Review Report to respond, and to request, in writing, a Formal Review by the district.

c) If a district does not receive a written request for a Formal Review within 10 days from the date of the postmark of the Final Review Report, this will finalize the report.

5) ***Formal Review:*** A district, upon written receipt of a request for a Formal Review within the required timeframes stated above by a provider, or his or her designee, must:

a) Conduct a Formal Review within 30 days of receipt of the request;

b) Notify the provider, in writing, five or more days in advance of the Formal Review date;

c) Allow a provider, or his or her designee, to present evidence and arguments, in person, in support of the provider's position; and

d) Evaluate the evidence and arguments presented in writing or in person by the provider and or his or her designee;

e) Make appropriate changes to the findings before issuing the Final Determination.

6) ***Final Determination Issued to the Provider***

a) After reviewing the evidence and arguments supplied by a provider, or his or her designee, at a Formal Review, the district must make a Final Determination to uphold, amend or reverse the findings contained in the Preliminary Review or Final Review Report. Within 30 days of the Formal Review, the district must issue a Final Determination Report (see Attachment G Final Determination-False Claims(s) Substantiated and Attachment H: Final Determination-False Claim(s) Unsubstantiated).

b) A final determination that a provider submitted false claims may be the basis for a district to disqualify a provider from providing subsidized child care (see section D below for required notifications of provider disqualifications).

**D. Duration of District Disqualification of Providers from Receiving Child Care Subsidy Payments**

A provider who has been disqualified by a district from receiving payment for child care services provided under the Child Care Subsidy Program is ineligible to receive such services through any district for five years from the date of the disqualification. If after five (5) years from the date of the disqualification, such provider paid full restitution of any and all falsely obtained funds to the district then the provider will be eligible to provide subsidized child care. However, if after five (5) years from the date of the disqualification, such a provider did not make full restitution to the district, then the provider will remain ineligible to provide subsidized child care indefinitely.

**E. Required Notifications of District Disqualifications of Providers from Receiving Child Care Subsidy Payments**

When a district disqualifies a licensed, registered, or enrolled legally-exempt child care provider from receiving subsidy funds, the following notifications must be issued:

1) ***Child Care Provider***: The district must notify the child care provider, in writing, within ten (10) days upon reaching the decision to disqualify the provider (see Attachment I: Provider Notice of Provider Disqualification form Receiving Child Care Subsidy Reimbursement). In determining the date of disqualification the district must allow the parent/caretaker time to locate an eligible child care provider, therefore, the provider disqualification date should be made two weeks from the date of the provider notice of disqualification.

2) ***Parent/Caretaker***: The district must notify, in writing, the parent/caretaker within ten (10) days upon reaching the decision to disqualify the provider. This notification to the parent must indicate that the district's decision to disqualify a provider from child care subsidy payment has no bearing on the parent's continuing eligibility for child care services, as long as the parent finds a different, eligible provider (see Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement). In addition, the district should include the name and contact information of the local Child Care Resource and Referral agency to assist the parent/caretaker with finding child care.

3) ***OCFS Division of Child Care Services Home Office and Enrollment Agency or Regional Office***: The district must send written notice of all provider disqualifications to both OCFS Division of Child Care Services Home Office and the appropriate Enrollment Agency when the disqualified provider is an enrolled legally exempt child care provider or the appropriate OCFS child care Regional Office Manager when the disqualification pertains to a licensed or registered child care provider. Said notification must identify the provider who is being disqualified, and include the reason(s) for the disqualification and the timeframe of the disqualification i.e., a minimum of five years or indefinitely in adherence to the regulation (see Attachment I: Provider Notice of Provider Disqualification form Receiving Child Care Subsidy Reimbursement).

4) ***Legally Exempt Child Care Provider*:** The Enrollment Agency must notify the legally exempt child care provider that he/she is disqualified from receiving child care subsidies and his/her enrollment is terminated. OCFS CCFS LE 010: Notice of Termination of Enrollment Legally-Exempt Child Care will be used by the Enrollment Agency.

**F. Recording Child Care Provider Disqualifications in the Child Care Facility System (CCFS)**

If the provider who has been disqualified by the district is an enrolled legally-exempt provider, the district must provide the Enrollment Agency with the disqualification start and end date. The enrollment agency must document the district's disqualification and the termination of enrollment of the provider in the Child Care Facility System (CCFS), the State system of record for child care providers.

If the provider who has been disqualified by the district from receiving child care subsidy funding, is a licensed or registered provider, the district must provide the OCFS child care Regional Office with the disqualification start and end date. The OCFS child care Regional Office will enter the child care subsidy disqualification start and end date in CCFS. The disqualification from receiving child care subsidy funding may affect the provider's license or registration.

**G. Other Sources of Information**

1) ***Announced and Unannounced Inspections by Social Services Districts***
In accordance with OCFS regulations, districts may conduct announced or unannounced inspections of the records and premises of any child care provider that provides care for subsidized children. Subsequently, a social services district must inform the appropriate OCFS child care Regional Office of any violations of child care subsidy regulations, where applicable, and must provide the Regional Office with an inspection report documenting the results of the inspection.

This does not take away the district's right to conduct an audit or fraud investigation of a child care provider. Districts have the authority to examine all of a provider's payment records, including those of private pay families, to determine if the provider is charging more for subsidized child care than for private pay, in violation of state regulation 18 NYCRR 415.6(e)(2).

2) ***New York State Department of Health Child and Adult Care Food Program (CACFP)***

CACFP is a meal reimbursement program that helps child care providers serve nutritious meals and snacks to the children in their care. CACFP Sponsor agencies are required to conduct three on-site monitoring reviews of participating providers per year. CACFP encourages its Sponsor agencies to share child enrollment and attendance records for any participating provider, regardless of modality, with local social services districts for the purpose of investigating child care subsidy fraud. Districts may also contact CACFP to request information about specific providers.

### H. Compliance of Subsidized Child Care Providers with OCFS Regulations

1) ***Provider Responsibilities***: Districts must notify all eligible providers who are in receipt of child care subsidy funds of their responsibilities for complying with OCFS regulations (see Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care). Providers of subsidized child care must:

   a) Adhere to all applicable OCFS regulations when operating their program and sign an agreement that sets forth and underlines their responsibilities when participating in the Child Care Subsidy Program;

   b) Maintain current and accurate daily attendance records at the program site for each child, showing the date of attendance with the time of arrival and departure, and noting full day absences, where applicable;

   c) Certify that all documents and information provided to the district are accurate and true and that any false claims for payments by a provider may result in the deferral or disallowance of payment for such claims, a referral to OCFS for the revocation of a provider's license or registration, and/or a referral for criminal prosecution; and

   d) Not charge more for subsidized child care than the provider charges for private pay child care.

2) ***Provider Non-Compliance***: Districts may request that OCFS initiate an enforcement action against child care providers who receive child care subsidies and are found to be non-compliant with the subsidy regulations. A district seeking such action shall contact the appropriate OCFS child care Regional Office and present such evidence as requested by the Regional Office of the provider's non-compliant actions, where appropriate.

## IV. SYSTEM IMPLICATIONS

This LCM has no Welfare Management System or Child Care Time and Attendance system implications.

## V. CONTACT PERSONS

If you have any program questions regarding information contained in this LCM, contact Rhonda Duffney of the Division of Child Care Services at (518) 474-9454 or Rhonda.Duffney@ocfs.ny.gov

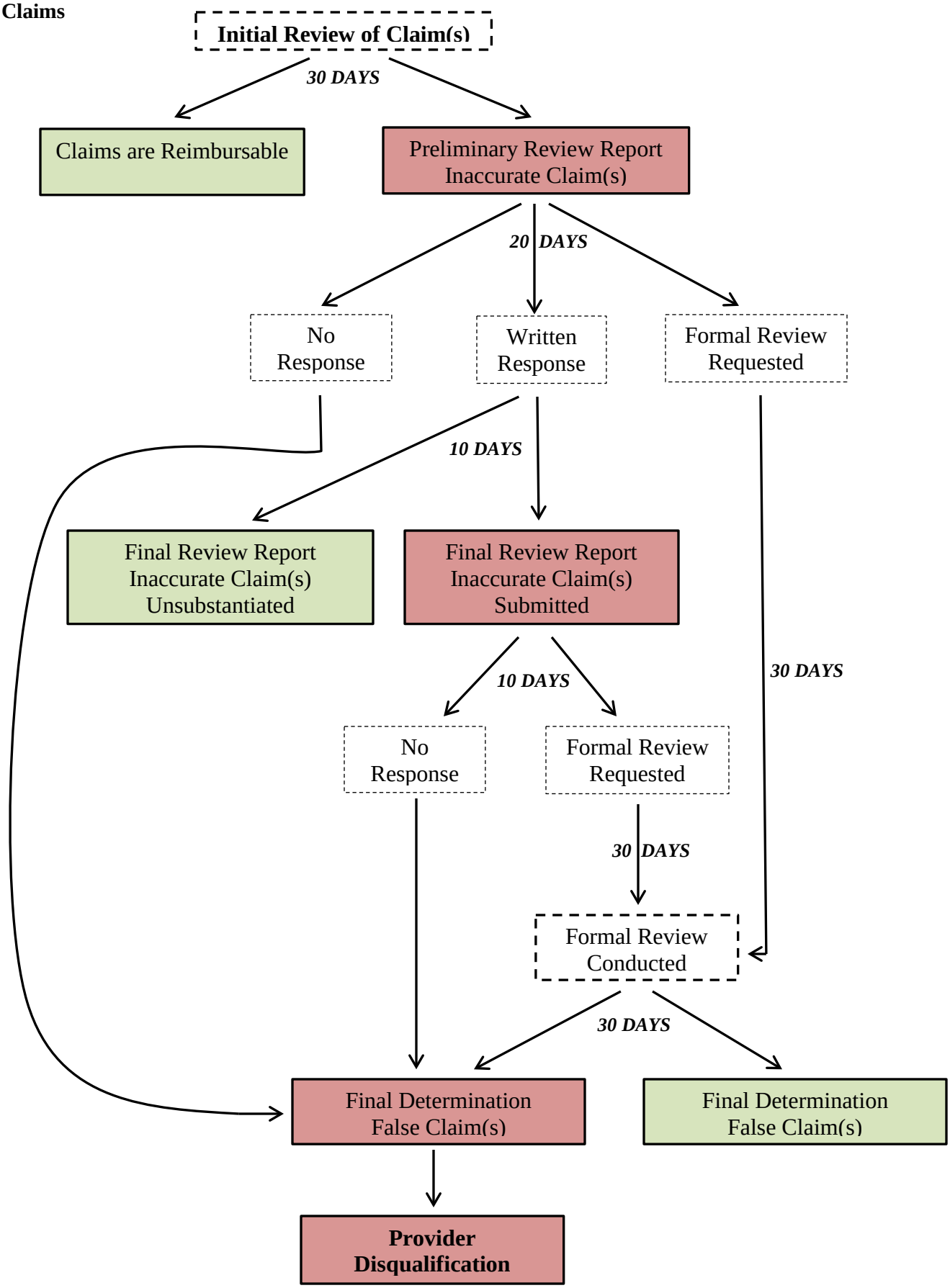
If you need to contact an OCFS Regional Manager about a potential enforcement action against a regulated child care provider, contact the following:

OCFS Region 1 (Buffalo Regional Office): Patricia Harper at (716) 847-3828; Patricia.Harper@ocfs.ny.gov
OCFS Region 2 (Rochester Regional Office): Terry Chylinski at (585) 238-8531; Terry.Chylinski@ocfs.ny.gov
OCFS Region 3 (Syracuse Regional Office): Dianne McLaughlin at (315) 423-1202; Dianne.McLaughlin@ocfs.ny.gov
OCFS Region 4 (Albany Regional Office): Tracey Turner at (518) 402-3038; Tracey.Turner@ocfs.ny.gov
OCFS Region 5 (Spring Valley Regional Office): Frances Franco-Montero at (845) 708-2400; Frances.Franco-Montero@ocfs.ny.gov
OCFS Region 6 (NYC Regional Office): Patricia Lewis at (212) 383-1415; Patricia.Lewis@ocfs.ny.gov
OCFS Region 7 (Long Island Regional Office): Robin Beller at (631) 342-7100; Robin.Beller@ocfs.ny.gov

*/s/ Janice M. Molnar*

**Issued By:**
Janice M. Molnar Ph.D.
Deputy Commissioner
Division of Child Care Services

**Attachment A: DESK AID for Administrative Review Process for Child Care Subsidy Claims**



**Attachment B: Provider Notice of Deferral of Claim(s) for Reimbursement**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Provider Notice of Deferral of Claim(s) for Reimbursement**

Dear *[Child Care Provider]*:

This notice is to advise you that the *[local social services district]* is deferring or postponing your claim(s) for reimbursement for the following:

| **Child's Name** | **Service Date(s) and Time in /Time out** | **Amount of Deferred Claim(s)** |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

Following Title 18 of the New York State Codes Rules and Regulations § 415.4(c)(9)(ii), the local social services district is deferring the claim(s) listed above for the following reason(s):

- ☐ The district has conducted an initial review of the claim(s) and found inaccuracies that warrant a more detailed review.

- ☐ A federal, state, or local government agency has recommended that the district postpone payments because the district is at risk of making payments for services that were not provided in accordance with applicable state regulations.

- ☐ The district has been notified of the existence of a pending criminal charge against you involving fraud.

The social services district has begun an administrative review of the claim(s) in accordance with 18 NYCRR § 415.4(h)(2)(ii)You will be notified, in writing, of our decision.

Sincerely,

**Attachment C: Deferred Claim Review—Claim(s) are Reimbursable**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Deferred Claim Review—Claim(s) are Reimbursable**

Dear *[Child Care Provider]*:

You were previously notified that the [*local social services district*] deferred or postponed payment of your claim(s) for reimbursement for providing child care services under the child care subsidy program. We have reviewed those deferred claim(s) listed below, and found that **the claim(s) are reimbursable and will be paid.**

| **CLAIMS** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time in / Time Out** | **Amount of Deferred Claim(s)** |
| | | |
| | | |
| | | |
| | | |

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- ☐ Is included with this notice.
- ☐ Will be sent at a later date.

No response is required by you at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

**Attachment D: Preliminary Review Report—Inaccurate Claim(s) Submitted**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Preliminary Review Report—Inaccurate Claim(s) Submitted**

Dear [*Child Care Provider*]:

This notice is to advise you that the [*local social services district*] has conducted a Preliminary Review of claim(s) for subsidized child care reimbursement in accordance with Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(a). We have found that you **submitted inaccurate claim(s)** and are **ineligible for payment(s)** of the following:

| **CLAIMS REVIEWED** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time in / Time out** | **Amount of Claim(s)** |
| | | |
| | | |
| | | |
| | | |

This decision was based on the following reason(s)/documentation:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

**<u>What does this mean for you?</u>**
The purpose of this Administrative Review Process is to allow you the opportunity to refute the district's findings, and for the district to make a Final Determination as to whether or not you submitted false claim(s) for reimbursement to the Child Care Subsidy Program. If there is a Final Determination that you submitted false claim(s), **you will be required to repay any overpayments** that the district identifies during the course of their review, and the district **may disqualify you from receiving child care subsidy for a minimum period of five (5) years**.

**Your Response Options pursuant to 18 NYCRR § 415.4(h)(2)(ii)(b)&(c):**

**Option 1**: You may respond in writing presenting evidence and arguments that you believe refute the findings of the Preliminary Review. In order to be considered, your response must be received by the social service district within 20 days from the postmarked date of this letter. Please send your response to:

_____

**Option 2:** You may request, in writing, a formal review by the social services district, where you, or your designee, will be allowed to present evidence and arguments in person in support of your position. In order to be granted a formal review, your response must be received by the social services district within 20 days from the postmarked date of this letter. Please send your response to: _____

**Option 3:** If you do not respond within 20 days from the postmarked date of this Notice, the findings of the Preliminary Review will become Final, and you will not receive payment for any deferred claim(s) listed above, or if you have received any payment(s) that you were not eligible for, you will be required to repay that amount. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the Child Care Subsidy Program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

**Attachment E: Final Review Report of Administrative Review—Inaccurate Claim(s) Submitted**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Final Review Report of Administrative Review—Inaccurate Claim(s) Submitted**

Dear *[Child Care Provider]*:

In accordance with Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(d), the [*local social services district*] has conducted a final review of the available documentation and evidence related to claim(s) that you submitted for payment for providing child care services under the subsidy program (including your timely response to the Preliminary Review Report). We have found that you **submitted an inaccurate claim(s)** and are **ineligible for payment(s)** on the following claim(s):

| **CLAIMS REVIEWED** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time In / Time Out** | **Amount of Claim(s)** |
| | | |
| | | |
| | | |
| | | |

This decision was based on the following reason(s)/documentation:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

**<u>What does this mean for you?</u>**
The purpose of this Administrative Review Process is to allow you the opportunity to refute the district's findings, and for the district to make a Final Determination as to whether or not you submitted false claim(s) for reimbursement to the Child Care Subsidy Program. If there is a Final Determination that you submitted false claim(s), **you will be required to repay any overpayments** that the district identifies during the course of their review, and the district **may disqualify you from receiving child care subsidy for a minimum period of five (5) years**.

**Your Response Options pursuant to 18 NYCRR § 415.4(h)(2)(ii)(e):**

**Option1:** You may request, in writing, a formal review by the social services district, where you, or your designee, will be allowed to present evidence and arguments in person in support of your position. In order to be granted a formal review, your response must be received by the social services district within 10 days from the postmarked date of this letter. Please send your response to: _____

**Option2:** If you do not request a Formal Review within 10 days from the postmarked date of this Notice, the findings of the Final Review will become the Final Determination, and you will not receive payment for any deferred claim(s) listed above, or if you have received any payment(s) that you were not eligible for, you will be required to repay that amount. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the child care subsidy program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

**Attachment F: Final Report of Administrative Review—Inaccurate Claim(s) Unsubstantiated**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Final Report of Administrative Review—Inaccurate Claim(s) Unsubstantiated**

Dear *[Child Care Provider]*:

This notice is to inform you that the [*local social services district*] has conducted a final review of the additional information that you provided regarding the claim(s) and/or payment(s) listed below, and we found that **the claim(s) are reimbursable and will be paid.**

| **CLAIMS REVIEWED** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time in / Time Out** | **Amount of Deferred Claim(s)** |
| | | |
| | | |
| | | |
| | | |

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- ☐ Is included with this notice.
- ☐ Will be sent at a later date.

No response is required at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

**Attachment G: Final Determination—False Claim(s) Substantiated**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Final Determination—False Claim(s) Substantiated**

Dear *[Child Care Provider]*:

The [*local social services district*] has considered all available documentation and evidence. Pursuant to Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(h), we have made a Final Determination that you **submitted a false claim(s)** and are **ineligible for payments** on the following claim(s):

| **CLAIMS REVIEWED** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time In/Time Out** | **Amount of Claim(s)** |
| | | |
| | | |
| | | |
| | | |

This decision was based on the following reason(s)/documentation:

_____
_____
_____
_____
_____
_____
_____

You will not receive payment for any deferred claim(s) listed above that have been found ineligible for payment.

If you have received any payment(s) that you were not eligible for, you will receive a Notice of Overpayment with the amount owed and payment instructions. Additionally, you may be disqualified from receiving payment for child care services provided under the child care subsidy program for a minimum period of five (5) years. Failure to repay the full amount of money that you were ineligible to receive may disqualify you from receiving payment for child care services under the child care subsidy program indefinitely.

The social services district retains its rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

**Attachment H: Final Determination—False Claim(s) Unsubstantiated**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*

**Final Determination— False Claim(s) Unsubstantiated**

Dear *[Child Care Provider]*:

The [*local social services district*] has considered all available documentation and evidence. Pursuant to Title 18 of the New York Code of Rules and Regulations § 415.4(h)(2)(ii)(h), we have made a Final Determination that **the claims are reimbursable**. The claim(s) included in this review are listed below.

| **CLAIMS REVIEWED** | | |
|---|---|---|
| **Child's Name** | **Service Date(s) and Time In / Time Out** | **Amount of Claim(s)** |
| | | |
| | | |
| | | |
| | | |

Any reviewed claims that were found to be accurate and were previously deferred are now eligible for payment. Payment of those claim(s):

- ☐ Is included with this notice.
- ☐ Will be sent at a later date.

No response is required at this time. Thank you for your cooperation.

The social services district retains its rights to review these and any other claims made by you and/or payments made to you for providing child care services under the subsidy program as new claims and evidence are received in the future.

Sincerely,

**Attachment I: Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement**

*[County Name and Address/Logo]*

*[Date]*

*[Provider Name and Address]*
*[Provider's Vendor ID]*

**Provider Notice of Disqualification from Receiving Child Care Subsidy Reimbursement**

Dear *[Child Care Provider]:*

This notice is to advise you that the *[local social services district]* has **disqualified** you from receiving child care subsidy reimbursement for a **minimum period of five (5) years**. The regulations that allow us to take this action are Title 18 of the New York State Codes Rules and Regulations § 415.4(h)(2)(ii)(h) & § 415.4(h)(2)(iii).

If after five (5) years from the effective date of the disqualification, you make full restitution of all falsely obtained funds to the social services district, you will be eligible to provide subsidized child care. However, if after five (5) years from the effective date of the disqualification, you have not made full restitution to the social services district, you will remain ineligible to provide subsidized child care indefinitely.

**The effective date of your disqualification is _____ .**

**<u>Disqualification Reason</u>**
You have been disqualified from receiving child care subsidy reimbursement because:

| | |
|---|---|
| ☐ | You have been criminally convicted of fraud. |
| ☐ | You have been found to be civilly liable for fraud. |
| ☐ | You voluntarily admitted to filing a false claim for reimbursement for child care services. |
| ☐ | You were disqualified from the Child and Adult Care Food Program, by the New York State Department of Health and/or its sponsoring agency, for submission of false information on the application, submission of a false claim for reimbursement or failure to keep required records. |
| ☐ | You failed to comply with the terms of a repayment plan with the social services district. |
| ☐ | You have been convicted of an activity that occurred in the past seven (7) years that indicated a lack of business integrity. |
| ☐ | You have been found by a social services district, after the social services district has conducted an administrative review, to have submitted a false claim(s) to the social services district for reimbursement. |

Our exercise of regulatory authority does not waive the social services district's rights to pursue other administrative, civil, or criminal remedies in connection with this matter, as determined appropriate.

Sincerely,

**Copy 1**: OCFS Division of Child Care Services Home Office
**Copy 2:** Regional Office (if licensed or registered) OR Enrollment Agency (if enrolled legally exempt)

**Attachment J: Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement**

*[County Name and Address/Logo]*

*[Date]*

*[Parent(s) Name and Address]*

**Parent Notice of Provider Disqualification from Receiving Child Care Subsidy Reimbursement**

**Provider Name: _____**

**Effective Date of Provider Disqualification: _____**

Dear *[Parent(s) Name]:*

This notice is to advise you that *[local social services district]* has **disqualified your child care provider** from receiving child care subsidy reimbursement. Your child care provider will be disqualified from receiving payment for child care services provided under the child care subsidy program through any social services district for a minimum period of **five (5) years**. The regulations that allow us to take this action are Title 18 of the New York State Codes Rules and Regulations § 415.4(h)(2)(ii)(h) & § 415.4(h)(2)(iii).

The provider's disqualification **does not affect your eligibility for child assistance.** However, you must select a different child care provider who is eligible to provide subsidized child care. An eligible child care provider is any provider that is licensed, registered, or enrolled and has not been disqualified from receiving child care subsidy reimbursement.

If you need assistance finding another child care provider, you can contact [*Child Care Resource and Referral Name and phone number*]. Information about child care providers is also available on the New York State Office of Children and Family Services website at http://ocfs.ny.gov/main/childcare/looking.asp.

If you decide to continue to use the provider listed above after the disqualification date, the social services district will not pay the provider and you will be responsible for paying the provider for services provided.

If you have questions about your eligibility, please contact *[worker name]* at *[worker phone number]*.

Sincerely,

**Attachment K: Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care**

## Notice of Your Responsibilities as an Eligible Provider of Subsidized Child Care

Dear Child Care Provider:

This notice is being sent to you to advise you of **your responsibilities** as an eligible provider of subsidized child care.

1. Compliance with NYS Regulations. You must operate your child care program in compliance with all applicable New York State Office of Children and Family Services (OCFS) regulations. Failure to do so may result in OCFS taking enforcement action pursuant to Title 18 of the New York Code of Rules and Regulations § 413.3. You can find the full text of the regulations on the OCFS website http://www.ocfs.state.ny.us/main/childcare/daycare_regs.asp.
   a. Child care subsidy program regulations can be found in 18 NYCRR § 415.
   b. Some child care provider regulations are specific to your provider type. You can use the chart below to find regulations that apply specifically to your provider type.

| Eligible Provider Type | NYS Regulations |
|---|---|
| Enrolled Legally-Exempt In-Home Child Care Provider | 18 NYCRR § 415 |
| Enrolled Legally-Exempt Family Child Care Provider | |
| Enrolled Legally-Exempt Group Child Care Provider | |
| Registered Family Day Care Home | 18 NYCRR § 417 & 413 |
| Registered School Age Child Care | 18 NYCRR § 414 & 413 |
| Licensed Group Family Day Care Home | 18 NYCRR § 416 & 413 |
| Licensed Child Day Care Center | 18 NYCRR § 418-1 & 413 |
| Registered Small Child Day Care Center | 18 NYCRR § 418-2 & 413 |
| Public school district operating a child care program that meets State and Federal Requirements | 18 NYCRR § 413 |

2. Attendance Records. You must, keep current and accurate attendance records for each child on a daily basis at the child care site. The records must show the date of attendance, the time of arrival, and time of departure. Full day absences must also be recorded.

3. True and Accurate Claims for Reimbursement. You must submit true and accurate attendance information to the social services district for reimbursement for providing child care to a child receiving a subsidy. Any false or fraudulent claims for payments by a provider may result in:
   a. Deferral or disallowance of payment(s) for such claims with a social services district;
   b. Referral to the New York State Office of Children and Family Services Regional Office or Enrollment Agency, which may lead to revocation of a provider's registration or license, or termination of enrollment;
   c. Referral for criminal prosecution; and/or
   d. Disqualification to provide subsided child care for five (5) or more years.

4. Subsidized Child Care Charges. You must not charge more for subsidized child care than you charge for non-subsidized care.

# 02-OCFS-INF-05,
# *Child Care Case Referrals to FEDS and EVR*

The purpose of this informational letter is to inform social services districts of their ability to refer applicants to be funded under the New York State Child Care Block Grant (NYSCCBG) to their Front End Detection System (FEDS) or Eligibility Verification Review (EVR) programs. Additionally, districts have the ability to refer NYSCCBG applicants and recipients to other fraud and abuse control programs that may be instituted in the district and have appropriate costs distributed and reimbursed with NYSCCBG funds.

This page left intentionally blank.

George E. Pataki
*Governor*

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

John A. Johnson
*Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 02 OCFS INF-05 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Development and Prevention Services |
| **Date:** | June 10, 2002 |
| **Subject:** | Child Care Case Referrals to FEDS and EVR |
| **Suggested Distribution:** | Directors of Child Care<br>Directors of Temporary Assistance<br>Fraud Investigator Staff<br>Staff Development Coordinators |
| **Contact Person(s):** | See page 4 |
| **Attachments:** | A: Front End Detection Monthly Investigation Report<br>B: Eligibility Verification Review Monthly Investigation Report |
| **Attachment Available On – Line:** | Attachments are not available on-line |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| | | | | | |

## I. Purpose

The purpose of this informational letter is to inform social services districts of their ability to refer applicants to be funded under the New York State Child Care Block Grant (NYSCCBG) to their Front End Detection System (FEDS) or Eligibility Verification Review (EVR) programs. Additionally, districts have the ability to refer NYSCCBG applicants and recipients to other fraud and abuse control programs that may be instituted in the district and have appropriate costs distributed and reimbursed with NYSCCBG funds. The Automated Claiming System Fraud and Abuse Control Function (F10) has been revised to calculate and claim fraud activities and costs as appropriate to the NYSCCBG. This letter includes information on the plan for and reporting of NYSCCBG cases referred to FEDS and/or EVR and on the procedures for claiming fraud and abuse control activities for NYSCCBG cases.

## II. Background

Chapter 41 of the Laws of 1992 mandated that each social services district establish a FEDS for public assistance applicants. FEDS is a procedure designed to identify intentionally fraudulent or inadvertently erroneous information supplied by an applicant for assistance before that applicant is found eligible for benefits. Districts were issued requirements for implementing a FEDS program in 92 ADM-33 dated August 26, 1992.

EVR is a fraud and abuse detection and prevention process designed to identify fraud and overpayments. EVR is not mandated and the process is defined by the local district. Some EVR districts have chosen to review public assistance applications in which a FEDS indicator is not present, public assistance cases that are undercare, or Food Stamp or Medical Assistance cases. Depending upon the district, EVR may include an intensive interview in which the applicant/recipient may be required to provide documentation and personal records to verify identity, address and/or employment. Computer searches and other checks may be done to obtain leads and determine whether there may be other income, employment or resources.

The Section 404.1(e)(1) of 18 NYCRR provides that no determination of eligibility for Services may be made solely on the basis of the application. Documentation (the collection, verification and recording of information) must be part of the eligibility determination process. The success districts have had in avoiding inappropriate payments in the public assistance program area through the implementation of FEDS and EVR indicates that there will be even greater savings when the process is implemented for child care cases. Therefore, the Office of Children and Family Services recommends inclusion of child care subsidy cases into the FEDS and/or EVR programs.

## III. Program Implications

Districts have the ability to construct their FEDS and EVR programs to include applicants and recipients of NYSCCBG child care subsidies. For child care cases, any or all of the FEDS indicators can be selected. Districts may develop and implement other referral indicators.

## IV. Required Actions

A. Amendment of Plans

Districts that select to include child care cases in their FEDS or EVR programs must amend their FEDS Plan. This amendment may be included in the public assistance FEDS plan or may be submitted separately. Districts must address the following in their plan amendments:

-Identify the criteria for making a referral to the investigation unit;

-Describe the investigative unit procedures and processes;

-Establish procedures between eligibility units and the investigators unit for receiving, controlling and investigating referrals;

-Specify the turnaround time from the point of referral to the investigators until the return from the investigators to the originating eligibility unit;

-Include the methodology for completing the monthly FEDS and/or EVR report and submitting it by the 10th day of the following month; and

- Stipulate the timeframe for implementation for child care cases and identify the anticipated staffing levels.

Plans or plan amendments must also be submitted 60 days in advance of its implementation date and approved by the Office of Children and Family Services. The plans will be reviewed to determine whether minimum standards for processing referrals are met. All plans and plan amendments must be submitted to:

Office of Children and Family Services
Office of Audit and Quality Control
52 Washington Street – Room 309
Rensselaer, New York 12144

B. FEDS/EVR Reporting

The reporting forms, Front End Detection Monthly Investigation Report (Attachment A) and Eligibility Verification Review Monthly Investigation Report (Attachment B), are revised to include information on child care cases and a monthly cost avoidance value for child care cases. The reports must be submitted by the 10th day of the month following the report month. Reports are submitted to the Bureau of Program Integrity, Audit and Quality Control, Office of Temporary and Disability Assistance (OTDA). Copies of the reporting forms can be obtained from the Bureau of Program Integrity, OTDA.

C. Client Rights

While the FEDS and EVR programs are geared toward reducing inappropriate costs, it is important that these reductions not occur at the expense of applicants who are properly eligible for benefits. There will be many applicants whose circumstances will require a FEDS/EVR referral based on meeting one or more referral conditions. In all cases, the client must be afforded a legitimate opportunity to explain his or her circumstances. Applicants may have a plausible explanation for the circumstances. For example, a district may include as referrals those persons who have a post office box and self-employed individuals. The client who has a post office box may live in a high crime area or on a rural delivery route. The self-employed individual may have precise tax and business records. A FEDS/EVR referral in no way constitutes evidence that an applicant is committing fraud. An individual who is able to document and justify the circumstances relating to referral criteria should not be referred.

D. Claiming Procedures

Expenditures for Fraud and Abuse Control (F10) activities are considered administrative costs and are claimed in the Automated Claiming System (ACS). The ACS was revised effective October 1, 2001 to

include NYSCCBG fraud activities. Allocation percentages are determined to distribute F10 administrative costs to the Public Assistance, Medical Assistance, NYSCCBG and Food Stamps programs for the completion of Schedule D-10. The allocation percentages are based on the total number of cases investigated during the previous quarter.

The fraud activities related to NYSCCBG are reimbursed from federal and/or state funds when NYSCCBG claims are settled at 100 percent up to the district's allocation. There is a five percent cap on administrative costs under NYSCCBG.

For detailed claiming instructions, refer to the New York State Fiscal Reference Manual, Fraud and Abuse Control (F10), Volume 3 (Volume 4 for New York City), Chapter 16.

E. Contacts

If you have any FEDS/EVR questions related to child care, please contact the Office of Audit and Quality Control (OCFS):

Ted Nabywaniec at (518) 474-2554. E-mail at gg6919@dfa.state.ny.us.

If you have any FEDS/EVR questions related to Public Assistance, Food Stamp or Medical Assistance , please contact the Bureau of Program Integrity (OTDA):

Steve Melnyk at (518) 402-0130. E-mail at mailto:89d044@dfa.state.ny.us.

If you have any child care subsidy questions, please contact the Bureau of Early Childhood Services:

Eileen Mahoney at (518) 473-0711. E-mail at svc109@dfa.state.ny.us.

If you have any fiscal questions, please contact the Bureau of Financial Services (OTDA):

Regions 1-4: Roland Levie at toll free 800-343-8859, extension 4-7549 or directly at (518) 474-7549. E-mail at roland.levie@dfa.state.ny.us. Fax at (518) 486-6350.

Region 5: Marvin Gold at(212) 383-1733. E-mail at marvin.gold@dfa.state.ny.us. Fax at (212) 383-2539.

---

**Issued By**
Larry G. Brown
Deputy Commissioner
Division of Development and Prevention Services

# 14-OCFS-INF-05
# *Revision of OCFS-LDSS-4700 Enrollment Form for Provider of Legally-Exempt Group Child Care*

The purpose of this Informational Letter is to inform local social services districts (LSSD) that the New York State Office of Children and Family Services (OCFS) has revised the OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care.

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Sheila J. Poole**
*Acting Commissioner*

# Informational Letter

| | |
|---|---|
| **Transmittal:** | 14-OCFS-INF-05 |
| **To:** | Commissioners of Local Social Services Districts |
| **Issuing Division/Office:** | The Division of Child Care Services |
| **Date:** | August 6, 2014 |
| **Subject:** | **Revision of OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care** |
| **Suggested Distribution:** | Director of Services<br>Directors of Temporary Assistance<br>Supervisors of Services<br>Supervisors of Temporary Assistance<br>Child Care Assistance Staff<br>Legally-exempt caregiver enrollment agencies |
| **Contact Person(s):** | Kara Boni (518) 408-6394<br>Kara.Boni@ocfs.ny.gov |
| **Attachments:** | OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care (Rev. 7/2014) |
| **Attachments Available Online:** | OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care, is available at:<br>http://ocfs.ny.gov/main/documents/ (OCFS Internet website)<br>http:/ocfs.state.nyenet/admin/forms/ (OCFS intranet website) |

## Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|---|---|---|---|---|
| 05-OCFS-ADM-03<br>06-OCFS-INF-06<br>05-OCFS-ADM-01<br>01-OCFS-LCM-11 | | 18 NYCRR 415.4 | | | |

## I. Purpose

The purpose of this Informational Letter is to inform local social services districts (LSSD) that the New York State Office of Children and Family Services (OCFS) has revised the OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care.

## II. Background

Federal guidelines mandate that all states have requirements in place designed to protect the health and safety of children that are applicable to the providers who service children under the Child Care and Development Fund, one of the primary federal sources for the New York State (NYS) Child Care Block Grant. In NYS, to be eligible to provide subsidized child care, child care providers must meet basic health and safety standards, which are verified through one of the following processes:

- Licensing by OCFS, or
- Licensing by New York City Department of Mental Health and Hygiene, or
- Registration by OCFS or one of its subcontractors, or
- Enrollment by a legally-exempt caregiver enrollment agency (LECEA)

When an applicant/recipient of a child care subsidy initially chooses a legally-exempt provider, the district must facilitate the children's enrollment with the provider by providing an enrollment form to the applicant/recipient, with instructions to complete the enrollment form jointly with the provider, and submitting the completed form to the LECEA serving the geographic area where the child care is being provided. The LECEA determines whether the provider can be enrolled, or if the provider is currently enrolled, whether the enrollment can be extended to include the children of the applicant/recipient. A child-specific determination is then documented in the Child Care Facility System by the LECEA.

Once a legally-exempt child care provider is enrolled, the LECEA is responsible for sending re-enrollment forms annually to the enrolled child care provider. Therefore, at the time of the applicant/recipient recertification, *if the legally-exempt child care provider is currently enrolled to provide care for all applicable child(ren) of the applicant/recipient and is currently caring for them*, the LSSD is not required to provide the applicant/recipient with another enrollment form.

The form used for enrollment of legally-exempt group providers in NYS is OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care. OCFS revised this form in June 2014, in order to better obtain information necessary to verify the legally-exempt status of group child care programs.

## III. Program Implication

Beginning no later than September 1, 2014, all LSSD and LECEAs must provide the OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care (rev.7/2014), to legally-exempt child care providers and child care subsidy applicants/recipients selecting a legally-exempt child care provider.

As of November 1, 2014, the LECEAs must require that the revised version of the form be submitted.

## IV. Access to Legally-Exempt Enrollment Forms

The revised OCFS-LDSS-4700 form can be downloaded from:
http://ocfs.ny.gov/main/documents/ (OCFS Internet)
http://ocfs.state.nyenet/admin/Forms (OCFS intranet)

To request hard copies of the OCFS-LDSS-4700 form:

- Submit the form, OCFS-4627 "Request for Forms and Publications," which is found on the following sites:
  http://ocfs.state.nyenet/admin/forms/Management_Services/
  http://ocfs.ny.gov/main/documents/docs%20Pubs.asp
  or
- Call the OCFS Forms Hotline: 518-473-0971

Mail the completed OCFS-4627 form to the following address:

**OCFS Resource Distribution Center**
11 Fourth Ave
Rensselaer, NY 12144-2629

*Janice M. Molnar, Ph.D.*

**Issued By:**
Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services

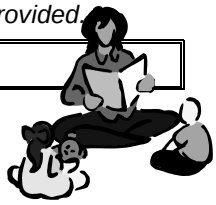
NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT GROUP CHILD CARE

Group child care providers, who are not required by NYS law to be licensed or registered to operate a day care program, and who are not providing "informal" child care in a residence, use this form to enroll with a legally-exempt caregiver enrollment agency to provide subsidized child care. (Regulatory reference: 18 NYCRR 415).

**Instructions:** *Please use black/blue pen.*

- *Provider/director must complete the "Child Care Provider Section" of this form and parent must review. Parent/caretaker must complete the "Parent Information Section" of this form and provider/program director must review.*
- *Both parent and provider/program director must sign at the end of the section.*
- *Submit the completed form to the enrollment agency serving the location where the child care is being provided.*



## I. CHILD CARE PROVIDER SECTION

### A. CHILD CARE PROVIDER/DIRECTOR AND PROGRAM

1. **Child Care Provider/Program Director[1] Name:**

☐ Mr. ☐ Mrs. ☐ Ms.

Last | First | MI | Suffix

Other names known by:

Maiden, married, aliases, etc.

2. **Program Name and Federal Identification Number *(Complete only if applicable):***

DBA (Doing Business As): Federal Identification No:

Legal Name:

3. **Identifying and Contact Information:**

Enrollment Number: (If Applicable) Site Phone: ( ) ☐ Unlisted

Date of Birth: (mm/dd/yyyy) / / Home Phone: ( ) ☐ Unlisted

Gender (M or F): Cell Phone: ( ) Fax: ( )

Social Security No.[2]: E-Mail Address[3]: ☐ No E-Mail Address

4. **Child Care Location:** Give address where the child care is being provided.

Building Number | Street | Apt.

Address Line 2 | Floor

City | State | Zip | County/Borough

| **(For Enrollment Agency Use)** | **(For Local District Use)** |
|---|---|
| Received Date ____/____/____ | Parent's Case No. Type: Local ☐; WMS ☐ |
| Complete Date ____/____/____ | LSSD Office/Unit/Wkr. No.____/____/____/ |

[1] Director means the person who has responsibility for the development and supervision of the daily activity programs for children and the administrative authority and responsibility for the daily operations of the child care program.

[2] The Social Security Number is not required when a federal identification number is present. The social security number or federal identification number is **required when the local social services district issues child care subsidy payments** directly to a child care provider/program. Failure to provide the social security or federal identification number may delay payment. Social security number of the provider or federal identification of the program is **optional** when the local social services district issues child care subsidy checks to subsidy recipient (parent/caretaker). If the social security number or federal identification is provided, it may also be used by federal, State & local agencies for federal reporting, to prevent duplication of services and to prevent fraud.

[3] The e-mail address, if given, may be used by the enrollment agency to contact you.

5. Mailing Address: Is your mailing address the same as the child care location address given on page one?
   ☐ **Yes**.
   ☐ **No**. If No, give address below.

Building Number Street Apt.

Address Line 2 Floor

City State Zip County/Borough

6. Do you read English? ☐ **Yes** ☐ **No.** If **No**, what language do you read best? _____
7. Do you speak English? ☐ **Yes** ☐ **No.** If **No**, what language do you speak best? _____
8. Operating schedule for the **program listed on page one**.

   A) The program operates (choose one):
   ☐ The full calendar
   ☐ School year only
   ☐ Summers Only
   ☐ Other (please describe): _____

   B) Provide information in the table below regarding the days and hours of operation for each age group and the numbers of children served.

| Ages Served | Days of the Week | Daily Start and End Times | Current Number of Children | Maximum Number of Children |
|---|---|---|---|---|
| **0-2 y** | | | | |
| **3-4 y** | | | | |
| **5-6 y** | | | | |
| **7-12 y** | | | | |
| **13+ y** | | | | |

9. Does your organization operate **any other** child care program at the SAME site/location where you intend to provide child care?
   ☐ **No.**
   ☐ **Yes.** *List below all **other** child care programs operated by your organization at the same site. Attach additional papers if needed.*

| | |
|---|---|
| PROGRAM NAME: | CHILD CARE FACILITY ID NO.: ☐ NYS License/ Registration ☐ NYS Enrolled Legally-Exempt |
| PROGRAM DESCRIPTION (Include numbers of children by age, hours of care, etc.): | **OTHER OVERSIGHT AGENCY:** ☐ NYC DOHMH (have Permit) ☐ None ☐ Other Agency: |
| | **RESOURCES SHARED WITH PROGRAM ON PAGE ONE:** ☐ Director ☐ Staff ☐ Space ☐ No shared resources ☐ Other resources: |
| PROGRAM NAME: | CHILD CARE FACILITY ID NO.: ☐ NYS License/ Registration ☐ NYS Enrolled Legally-Exempt |
| PROGRAM DESCRIPTION (Include numbers of children by age, hours of care, etc.): | **OTHER OVERSIGHT AGENCY:** ☐ NYC DOHMH Permit ☐ None ☐ Other Agency: |
| | **RESOURCES SHARED WITH PROGRAM ON PAGE ONE:** ☐ Director ☐ Staff ☐ Space ☐ No shared resources ☐ Other resources: |

| PROGRAM NAME: | CHILD CARE FACILITY ID NO.: ☐ NYS License/ Registration<br>☐ NYS Enrolled Legally-Exempt |
|---|---|
| PROGRAM DESCRIPTION (Include numbers of children by age, hours of care, etc.): | **OTHER OVERSIGHT AGENCY:**<br>☐ NYC DOHMH Permit ☐ None<br>☐ Other Agency: |
| | **RESOURCES SHARED WITH PROGRAM ON PAGE ONE:**<br>☐ Director ☐ Staff<br>☐ Space ☐ No shared resources<br>☐ Other resources: |

10. Legally-exempt group child care means child care provided by a provider/program, which is *not* a legally-exempt family child care or in-home childcare provider/program, AND, which is *not required* to be licensed or registered with the Office of Children and Family Services*, or* licensed by the City of New York, but which meets all applicable State or local requirements for such child care programs. The provider/program must meet the following requirement to be enrolled as legally-exempt.

    *I, the provider and/or program director, attest that my program is NOT providing child care that is required to be licensed or registered with the Office of Children and Family Services, or licensed by the City of New York.*

    ☐ **Yes**. If you have supportive[4] documentation, please provide it.

    ☐ **No.**

## B. Type of Legally-Exempt Child Care That You Provide

**To be enrolled to provide subsidized child care services, the provider/program director must attest that:**

- The provider/program is LEGALLY OPERATING under the auspices of another federal, State or local government agency; **OR**
- The provider/program is NOT REQUIRED to operate under the auspices of another federal, State or local government agency. These programs must meet additional health and safety requirements.

*Indicate in question 1 below, whether your program legally operates under the authority of another federal, State, or local government, or tribal agency, or, is not required to do so. Your answer to question 1 will determine whether you answer question 2 or question 3, within this subsection B.*

1. Choose the statement below that describes your program.

    ☐ **A)** My program legally **operates under the auspices** of another federal, State, or local government, or a tribal agency AND my program meets all State and local requirement for such program. My program is described in question B.2. Programs Operating Under The Auspices Of Another Government Agency.

    *Programs operating under the auspices of another federal, State, tribal or government agency must:*

    - Answer question B.2, Programs Operating Under The Auspices Of Another Government Agency, and then
    - Complete only the sections and questions listed immediately below.

    I. Child Care Provider Section
    - A. Child Care Provider/Director and Program *(All questions.)*
    - B. Type of Legally-Exempt Child Care That You Provide *(Questions 1 and 2)*
    - C. Other Qualifications and Program Characteristics,
      - #2) Program's Hours of Operation, *and*
      - #3) Cost of Care
    - F. Relevant History,
      - #2) Provider, Employees and Volunteers
    - G. Provider Agreements and Certification *(All questions.)*
    - H. Provider Certification *(All.)*

    II. Parent Information Section
    - A-D.#5. *(All questions are to completed by the parent/caretaker)*
    - D. Parental Acknowledgments & Certifications,
      - #6) Provider Certification

[4] Supportive documentation, issued by NYS Office of Children and Family Services, or the City of New York, may be required to establish that the provider/program is exempt from the requirement to be licensed/registered by NYS OCFS or NYC DOHMH.

☐ **B)** My program **does not** operate under the auspices of another federal, State, or local government or a tribal agency AND my program is **not legally required** to do such.

*Programs that are NOT required to operate under the auspices of another federal, State, tribal or government agency, must:*

- Skip question B.2 PROGRAMS OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY, on page 4, and
- Answer question B.3 PROGRAMS NOT OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY, on page 6, then
- Complete the Child Care Provider Section: ALL remaining subsections and questions.
- Complete within II. Parent Information Section, D. Parental Acknowledgements & Certifications: #6, Provider Certification, on page 19.

☐ **C)** None of the above. *Your program might not be eligible to be enrolled. Contact the enrollment agency for assistance.*

**2. PROGRAMS OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY:**

*Answer this question only if your answer to question 1, above, was "A".*
*Check ☑ to choose the statement A, B, C, D, E, or F, that describes your legally-exempt child care program and the* ***government or tribal agency under which you operate.*** *Answer all related questions for the selected program.*

☐ **A)** The program is operated in compliance with applicable **federal** laws and regulations and is **located on federal property**.

1) Name of Federal agency/property where located: _____

2) The type of child care provided is: *(check ☑ all that apply)*

☐ Day care center
☐ Family day care home
☐ Other child care program: _____

☐ **B)** The program is operated in compliance with applicable **tribal** laws and regulations and is **located on tribal property**.

1) Name of Tribe: _____

2) Name of tribal property where located: _____

3) The type of child care provided is: (*check ☑ all that apply*)

☐ Day care center
☐ Family day care home
☐ Other child care program:

☐ **C)** The program is operated under the auspices of the **NYS Department of Education**,

- Is **operated by** a public school district, that is providing elementary or secondary education or both, **in accordance with the compulsory education requirements** of NYS Education Law, **AND**
- Is **located on the same premises** or campus where the elementary or secondary education is provided, **AND**
- The program meets all State and local requirements for such child care programs.

1) Name of school: _____

2) Name of school district: _____

3) The type of child care provided is: (check ☑ all that apply)

☐ Nursery school program, providing services only to children three years of age or older
☐ Pre-kindergarten program, providing services only to children three years of age or older,
☐ School-age child care programs conducted during non-school hours.

☐ **D)** The program is a nursery school, voluntarily **registered** with the **NYS Department of Education**,

- Operating in accordance with Part 125 of NYSED regulations, **AND**
- Is operated by a nonprofit agency or organization or private proprietary organization, **AND**
- Is providing services for 3 hours or less per day, to pre-school age[5] children, **AND**
- The program meets all State and local requirements for such child care programs.

1) ☐ **I HAVE ATTACHED** a copy of my current certificate of registration *which is valid for up to 5 years*.

2) Registration Number: _____

3) Date of Certificate of Registration:

4) The program hours are: _____

☐ **E)** The program, located WITHIN New York City, is operated under Article 43 of the NYC Health Code

- Has **filed** appropriate notice with the New York City Department of Education on a form provided or approved by the NYC Department of Education, **AND**
- Is operated by a school recognized under the State Education law and which provides compulsory education for children, **AND**
- Is located within or as part of such school and has identical ownership, operation management and control of kindergarten and pre-kindergarten classes for children ages three through five and all other classes provided by the school, **AND**
- Is a pre-kindergarten or kindergarten program of instruction for children no younger than 3 years of age[6], through 5 years and serving *only* children ages 3 to 5 years, **AND**
- The program meets all State and local requirements for such child care programs.

1) Name of School: _____

2) ☐ I HAVE ATTACHED a copy of the current **Certificate of Filing** issued by the **NYC Department of Health and Mental Hygiene (DOHMH).**

3) Certificate of Filing DCID Number: _____

4) Filing Date: _____

☐ **F)** The program is a **Summer Day Camp operating under the auspices of the Department of Health AND**

- Does meet all State and local requirements for such child care programs, **AND**
- Does NOT concurrently hold a current license or registration to operate a day care program issued by the New York State Office of Children and Family Services or by the New York City DOHMH for this site and program, **AND**

1) The Summer Day Camp is operated under the jurisdiction of the: *(choose the appropriate authority)*

☐ New York State Department of Health (NYSDOH) in accordance with subpart 7-2 of the State Sanitary Code **OR**,

☐ New York City Department of Health and Mental Hygiene (NYCDOHMH).

2) The Summer Day Camp opened on or is scheduled to open on *(date)*: _____

3) Does the program have a **current year** permit, from the New York State Department of Health or the New York City DOHMH, to operate as a legally-exempt summer day camp program?

a) ☐ **Yes.** *You must attach the permit. Check ☑ below to show you have met the requirement.*

i) ☐ **I HAVE ATTACHED** a copy of my current year permit from the NYS DOH or the NYC DOHMH.

ii) Permit number: _____

iii) Expiration date: _____

---

[5] Per 18 NYCRR 413.2, "Preschooler" means a child who is at least three years of age and who is not yet enrolled in kindergarten or a higher grade.

[6] Programs operating under NYC Health Code Article 43 use the definition within Article 43 for *Three years of age:* A child attending an elementary school where the school year starts in September shall be deemed to be three years of age if the child's third birthday occurs or will occur on or before December 31st of the school year. In a school where the school year starts during any other month, all children in a class of three year olds shall have their third birthday within four months of the start of the school year.

b) ☐ **No**. You cannot be *fully enrolled* until you submit the current year summer camp permit from DOH. To be *conditionally enrolled* prior to the issuance of the current year's DOH summer camp permit, you must:

- Attach proof that you have completed the application to DOH for a permit to operate a summer day camp, **AND,**
- Have no outstanding compliance issues with the NYS DOH or NYC DOHMH, **AND**,
- Agree to immediately notify the enrollment agency if you are *denied* a summer camp permit by the DOH or if you withdraw your request for a summer day camp permit, **AND**,
- Agree to submit your current year's DOH summer day camp permit to the enrollment agency as soon as it is issued so that your enrollment will change from conditional enrollment to full enrollment. **Failure to submit the permit within 30 days of camp opening WILL result in a TERMINATION of enrollment.**

i) ☐ I have **ATTACHED** proof of my application for the DOH permit.

ii) I submitted the camp permit application to DOH on (date): _____

**3. PROGRAMS NOT OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY:**

Choose the statement, *A), B) or C),* that describes your legally-exempt child care program(s) that *does not operate under the auspices* of a federal, State, local government, or tribal agency.

☐ **A)** The program is **operated OUTSIDE OF New York City, by a private school or academy,** that is providing elementary or secondary education or both, **in accordance with the compulsory education requirements** of the NYS Education Law, **AND,**

- Is (are) **located on the same premises** or campus where the elementary or secondary education is provided, **AND,**
- Meets all State and local requirements for such child care programs.

1) Name of School: _____

2) The type of child care provided is: (check ☑ all that apply)

☐ Nursery school program or pre-kindergarten program, providing services only to children three years of age or older,

☐ A program for school-aged children conducted during non-school hours.

☐ **B)** The program is **operated WITHIN New York City, by a private school or academy,** that is providing elementary or secondary education or both, **in accordance with the compulsory education requirements** of the NYS Education Law, **AND,**

- Is (are) **located on the same premises** or campus where the elementary or secondary education is provided, **AND,**
- Meets all State and local requirements for such child care programs.

1) Name of School: _____

2) The program is for school-aged children conducted during non-school hours and the program *does not serve* any children ages 0 to 4 years of age.

☐ **C)** The program is a nursery school for children 3 years of age or older or program for preschool age children,

- Is not voluntarily registered with NYS Education Department, **AND,**
- Is operated by a non-profit agency or organization or a private proprietary agency **AND,**
- Provides services for three or less hours per day, **AND,**
- Meets all State and local requirements for such child care programs.

1) Name of Agency/Organization: _____

2) The type of child care provided is: *(check ☑ all that apply)*

☐ A nursery school

☐ A program for preschool [7]aged children, at least 3 years of age.

3) The program hours are: _____

☐ **D)** The program cares for not more than six school age children, during non-school hours, for three hours or less per day, **AND,**

- Is not located in a residence, **AND,**

Meets all State and local requirements for such child care programs.

[7] Per 18 NYCRR 413.2, "Preschooler" means a child who is at least three years of age and who is not yet enrolled in kindergarten or a higher grade.

# C. Other Qualifications & Program Characteristics

## 1. Provider's/Program's Qualifications to Administer Medication

***The questions pertaining to the administration of medication apply ONLY to group programs NOT operating under auspices of another government agency (Refer to pages 3-6 if you are not sure if this applies to your program.)***

**Note***: The parent's/caretaker's* plan for **who is responsible** for meeting the child(ren)'s medication needs is addressed in the Parent Information Section of this form.

NYS Law restricts the right to administer medication, other than over-the-counter topical ointments, sunscreen and topically applied insect repellent, to specific medical professionals who are authorized by New York State. A caregiver may not administer medication to any child in his or her care except to the extent that the caregiver is a medical professional authorized under the Education Law to administer medications OR both the program and the medication administrant have met the requirements for the administration of medication as defined in 18 NYCRR 418-1.11. Pursuant to 18 NYCRR 418-1.11, some child care providers/programs *may be* "permitted", to administer medications when certain requirements are met.

*Legally-exempt group child care programs, NOT operating under the auspices of another government agency*, may administer medication on a limited basis *only* when the following conditions are met:

- The program director is a Physician, Physician Assistant, Registered Nurse or Nurse Practitioner currently licensed by New York State Department of Education (NYSED) to administer medication

**OR**

- The program must be authorized by the Office of Children and Family Services (OCFS), to administer medication under a Health Care Plan for Administration of Medication, approved by a qualified health care consultant AND
  - The program's designated medications administrant must meet OCFS training requirements,
  - The program's medications administrant must be at least 18 years of age, and literate in the language in which the parental permissions and health care provider's instructions will be given,
  - The program must be operating in compliance with the NYS regulation,
  - The program's medications administrant must have permission to administer medication *to a specific child* from the child's parent/caretaker, step-parent, legal guardian, or legal custodian,
  - The program's medications administrant must follow the health care provider's instructions for administration of medication, and
  - The program's medications administrant may administer medication to *subsidized* children in care.

**Any child care provider, program employee or program volunteer <u>who is not authorized</u> by NYS Law or child care regulations, *may only administer over-the-counter topical ointments, sunscreen and topical insect repellent*.** Examples of medication they MAY NOT ADMINISTER include, but are not limited to: Tylenol, Ritalin, insulin, antibiotics, and ear, eye or nose drops.

A) The provider/program director agrees the provider/program director will administer medication *only as the provider/program is permitted by NYS Law, as described above.* The provider/program director will make sure that each of the program's employees and volunteers (present and future) administers medication only to the extent allowed by NYS Law.

☐ **Yes.** ☐ **No.**

B) Is the program interested in seeking OCFS authorization to administer medication to the child(ren) in subsidized care?

☐ **Yes.** The provider/program wants to learn how to start the process. Please send me the OCFS-LDSS-7007 <u>Obtaining Authorization to Administer Medication to the Child(ren) in Legally-Exempt Care</u>.

☐ **No.** The provider/program will not be seeking authorization to administer medication at this time.

C) Does this program (includes provider/director, employees, caregivers and/or volunteers) administer medication to any subsidized children in care*?*

☐ **Yes**. ☐ **No.**

D) Is the provider/program legally permitted to administer medication to the child(ren) in subsidized care? *Check ☑ statements 1 or 2. Provide all other information as it applies.*

☐ 1) **Yes.** *Complete the applicable section below, a) or b), to show the legal authority.*

☐ a) The **program director** is legally permitted to administer medication because the provider/program director is a NYS medical professional authorized by New York State Department of Education (NYSED) to administer medication. Therefore, the program director is allowed to administer medication to children in the program director's care when the program director has appropriate permissions from the parent(s) and in accordance with the health care provider's instructions.

1) Profession (*Check ☑ one):*

☐ Registered Nurse ☐ Physician
☐ Nurse Practitioner ☐ Physician Assistant

2) License number: _____

☐ I have attached a copy of the current NYS professional medical license.

☐ b) The program's **medication administrant**, designated in the Health Care Plan for the Administration of Medication, is legally permitted to administer medication because the provider/program has an OCFS-LDSS-7000, Health Care Plan for the Administration of Medication approved within the past 2 years and the designated **medication administrant** has met all basic and training requirements. The medications administrant named below is authorized to administer medication to subsidized children in the program's care when there are appropriate permissions from the parent, and, in accordance with the Health Care Plan for the Administration of Medication and the health care provider's instructions.

i) Approval date for Health Care Plan for the Administration of Medication: _____

☐ I have attached a copy of the first page AND the approval page of my Health Care Plan for the Administration of Medication (OCFS-LDSS-7000).

ii) Name of the qualified **medication administrant**: _____

iii) Health Care Consultant (HCC) name: _____

iv) Health Care Consultant Profession (*Check ☑ one):*

☐ Registered Nurse ☐ Physician
☐ Nurse Practitioner ☐ Physician Assistant

v) License Number: _____

☐ 2). **No.** None of the above permissions apply to the provider/program. The provider/program is not authorized by OCFS or NYSED. The program, **cannot administer** medication to child(ren) in care, **except**: over-the-counter topical ointments, sunscreen, and topically applied insect repellent.

## 2. Program's Periods of Operation

*(All programs must answer.)*

Indicate when the program is operating by *checking ☑ all that apply.*

☐ Full Year (school year and summer)
☐ School Year
☐ Summer Only (June-September)

## 3. Cost of Care

Do you charge parents receiving subsidy *the same amount or less* than you charge for non-subsidy child(ren) of the same age and similar care?

☐ **Yes.**

☐ **No.** I charge parents receiving subsidy **more** than I charge other parents.

## D. HEALTH AND SAFETY CHECKLIST

***The Health and Safety Checklist questions must be answered by group programs that are not under auspices of another government agency as explained in Subsection I B.***

*The provider/director and parent/caretaker must walk through and inspect the site, then complete the health and safety checklist together.*

*Check ☑ an answer for each item below:*

| YES | NO | The provider/program director agrees the program meets and will continue to meet the following basic health and safety requirements. |
|---|---|---|
| ☐ | ☐ | 1. The provider and all children have two separate & remote ways to leave the building in an emergency. |
| ☐ | ☐ | 2. The rooms for the child(ren) at the program site are well-heated, well-lighted and well-ventilated. |
| ☐ | ☐ | 3. The child care premises is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around those areas that keep children from getting to them. |
| ☐ | ☐ | 4. If child care is provided above the first floor, there are barriers or locks on the windows so the child(ren) cannot fall out. |
| ☐ | ☐ | 5. The water supply at the child care premises is safe. There are working toilets and there is hot and cold running water all the time. |
| ☐ | ☐ | 6. The provider, all employees, and volunteers who are likely to have regular contact with the child(ren) are physically, emotionally and mentally able to provide child care. |
| ☐ | ☐ | 7. The provider, all employees, and volunteers who are likely to have regular contact with the child(ren) are free from any communicable diseases that pose a risk to the health and safety of the child(ren) in care.<br>If the provider, any employee, or volunteer who is likely to have regular contact with the child(ren) has a communicable disease, the provider/program, must have a statement from such person's health care provider that indicates that the presence of a communicable disease does not pose a risk to the health and safety of the child(ren) in care.<br>☐ The provider/program has ATTACHED a doctor's statement, if the provider, any employee, or volunteer who is likely to have regular contact with the child(ren) has a communicable disease and that such disease does not pose a risk to the health and safety of the child(ren) in care. |
| ☐ | ☐ | 8. The child care premises is free of any dangerous or unsafe conditions that could hurt the child(ren). This includes but is not limited to:<br>• Knives and other sharp objects are out of the reach of the child(ren).<br>• Small rugs, runners, and electrical cords are held in place so the child(ren) won't trip.<br>• Electrical cords do not run under furniture or rugs and are out of the reach of the small child(ren).<br>• Extension cords are not overloaded.<br>• Cords to window blinds and shades are out of the reach of the child(ren).<br>• Hot liquids are out of the reach of the child(ren).<br>• Small items that the child(ren) could choke on are out of the child(ren)'s reach.<br>• To the extent that a legally-exempt group program provides cribs, those cribs must be in compliance with the federal requirements.<br>• A carbon monoxide detector is installed on each floor where a carbon monoxide source is located and/or where the child(ren) sleep or nap. |
| ☐ | ☐ | 9. All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with the child(ren), where food is prepared, or otherwise may be a danger to the child(ren). The provider/program stores all of these potentially unsafe materials in an inaccessible area safely away from the child(ren). |
| ☐ | ☐ | 10. The provider/program staff will give the child(ren) meals and snacks according to what the parent/caretaker and I have agreed. |
| ☐ | ☐ | 11. The provider/program staff will refrigerate milk, formula and perishable food that goes bad if left out. |
| ☐ | ☐ | 12. The provider/program staff will not heat formula, breast milk and other food items for infants in a microwave oven. |
| ☐ | ☐ | 13. The provider/program staff will always allow the custodial parent/caretaker or caretaker to have unlimited access to his/her child(ren) in care, to the program site while the child(ren) is in care, and to any written records concerning the child(ren). |

| YES | NO | The provider/program director agrees the program meets and will continue to meet the following basic health and safety requirements. |
|---|---|---|
| ☐ | ☐ | 14. The provider/program staff will hold fire/evacuation drills monthly with the child(ren) during hours that the child(ren) are in care so that the child(ren) and I will know what to do in the case of an emergency. |
| ☐ | ☐ | 15. The provider/program has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local or State police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |
| ☐ | ☐ | 16. The provider/program will use protective caps, covers or permanently installed safety devices on all electrical outlets that the child(ren) could reach when I am caring for the child(ren) under 5 years old. |
| ☐ | ☐ | 17. Paint and plaster are in good repair so that there is no danger of the child(ren) putting paint or plaster chips in their mouths or of it getting into food. |
| ☐ | ☐ | 18. The child care premises has at least one operating smoke detector on each floor of the program site. I will check regularly to make sure all detectors work. |
| ☐ | ☐ | 19. The provider/program has a portable first aid kit at the program site that is easy to get to in an emergency and my first aid supplies are kept in a clean container or cabinet away from the child(ren). It is stocked to treat common childhood injuries and problems. I will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used. |
| ☐ | ☐ | 20. The provider/program director has RECEIVED from the child(ren)'s parent/caretaker:<br>• signed proof from a doctor or other health care provider that: the child(ren) has received all of the immunizations appropriate for the child(ren)'s age; OR<br>• proof that one or more of the immunizations would harm the child(ren)'s health; OR<br>• a statement saying that the child(ren) has not been immunized due to the parent/caretaker's religious beliefs. |
| ☐ | ☐ | 21. The stairs, railings, porches and balconies are in good repair. |

## E. Provider/Program Behavioral Conditions

**The Provider/Program Behavioral Conditions Checklist questions must be answered by group programs that are *not operating under auspices* of another government agency as explained in Subsection I B.**

| YES | NO | The provider/program director agrees the program meets and will continue to meet the following basic health and safety requirements before caring for children: |
|---|---|---|
| ☐ | ☐ | 1. The provider/program director understands and agrees that the provider, program staff and program volunteers will never use physical punishment or let others use physical punishment while child(ren) are in their care. Physical punishment means doing things directly to the child(ren)'s body to punish them, such as:<br>• Spanking, biting, slapping, shaking, twisting, or squeezing;<br>• Making the child(ren) do physical exercises beyond what is normal;<br>• Forcing the child(ren) to stay still for long periods of time;<br>• Making the child(ren) stay in positions that hurt the child(ren) or are bizarre;<br>• Bathing the child(ren) in unusually hot or cold water; and<br>• Forcing child(ren) to eat or have in the child(ren)'s mouth soap, foods, hot spices or foreign substances. |
| ☐ | ☐ | 2. The provider/program director understands and agrees that provider, program staff and program volunteers will never use or be under the influence of alcohol or drugs while the child(ren) are in care and will make sure that the child(ren) being cared for do not have contact with people using drugs or alcohol. |
| ☐ | ☐ | 3. The provider/program director understands and agrees that provider, program staff and program volunteers will not smoke or allow smoking in indoor areas or other enclosed areas, such as cars or other vehicles, when the child(ren) are present. |
| ☐ | ☐ | 4. The provider/program director understands and agrees that provider, program staff and program volunteers will never leave the child(ren) alone or unsupervised. |

# F. RELEVANT HISTORY

## 1. PROVIDER'S HISTORY

*The questions in F.1.(A-C), must be answered only by Group Programs that are not operating under auspices of another government agency as explained in Subsection I B.*

### A) PROVIDER/ DIRECTOR TERMINATION OF PARENTAL RIGHTS

I certify and attest that *(Check☑ one):*

☐ I have **never had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.

☐ I **have had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.

☐ I have **ATTACHED** the OCFS-LDSS-4917[8], History of Court-Ordered Removal Of A Child And/or Termination of Parental Rights.

### B) PROVIDER/DIRECTOR COURT ORDERED ARTICLE 10 REMOVAL

I certify and attest that (*Check☑ one*):

☐ I **have never had** a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.

☐ I **have had** a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.

☐ I have **ATTACHED** the OCFS-LDSS-4917, History of Court-Ordered Removal Of A Child And/or Termination of Parental Rights.

### C) PROVIDER/DIRECTOR DAY CARE ENFORCEMENT

A child "day care" program includes licensed or registered day care centers, family day care homes, group family day care homes, small day care centers and/or school age child care programs.

1) I certify and attest that *(check☑ one):*

☐ I **have** had an application for a license or registration to operate a child day care program denied.

☐ I **have not** had an application for a license or registration to operate a child day care program denied.

2) I certify and attest that (*Check☑ one*):

☐ I **have** had a license or registration to operate a child day care program revoked or suspended.

☐ I **have not** had a license or registration to operate a child day care program revoked or suspended.

3) If the provider/program director has been denied a license or registration to operate a child day care program, OR if provider/program director has had a license or registration to operate a child day care program revoked or suspended, complete the following:

a) Name of the child day care program(s) for which this action occurred:

_____

b) Location: _____

c) ☐ I have **ATTACHED** the OCFS-LDSS-4916, History of Day Care Enforcement and Parental Acknowledgement.

## 2. PROVIDER'S, EMPLOYEE'S AND VOLUNTEER'S HISTORY

*These questions must be answered by ALL Group programs.*

**The provider/director must ask each employee and each volunteer who is likely to have regular contact with the child(ren) in care if they have been convicted of a crime.**

A) Did the provider/director ask each employee and each volunteer who is likely to have regular contact with the child(ren) in care, if they have been convicted of a crime?

☐ Yes.

☐ No.

---

[8] If you need a copy of this form, please contact your local social services district or your legally-exempt child care provider enrollment agency.

B) Has the provider/program director and/or the program's employee(s) and/or volunteer(s) ever been convicted of a crime in New York State or any other place?

☐ **No**. *Skip to Question D.*

☐ **Yes**. *If yes, you must complete and attach the OCFS-LDSS-4915, History of Criminal Convictions And Parental Acknowledgement for person with a criminal convictions history and answer question C.*

☐ The provider/program director has ATTACHED the OCFS-LDSS-4915, History of Criminal Convictions And Parental Acknowledgement.

C) In the chart below, provide additional information on each person **with a criminal convictions history** who is present at the child care site.

| ADDITIONAL INFORMATION ON CONVICTED PERSONS AT THE CHILD CARE SITE | | | |
|---|---|---|---|
| **NAME** (INCLUDE AND SPECIFY MAIDEN NAME AND ANY OTHER ALIAS NAMES BY WHICH VOLUNTEERS AND EMPLOYEES MAY BE KNOWN) | **ROLE:** EMPLOYEE, OR VOLUNTEER | **GENDER** *(M OR F)* | **DATE OF BIRTH** |
| 1) | | | / / |
| Last First MI Suffix<br>2) | | | / / |
| Last First MI Suffix<br>3) | | | / / |
| Last First MI Suffix<br>4) | | | / / |
| Last First MI Suffix<br>5) | | | / / |
| Last First MI Suffix | | | |

D) Indicated Reports Of Child Abuse Or Maltreatment

The provider/program director must ask all volunteers who are likely to have regular contact with children in care and all employees, if they have been the subject of an indicated report of child abuse or maltreatment (Child Protective).

The provider/program must provide each parent/caretaker with a true and accurate written statement, indicating whether the provider/program director, any program employee, and/or any volunteers who are likely to have regular contact with children in care, have been the subject and person responsible on any indicated report of child abuse or maltreatment, including: a description of the incident, the date of the indication and any other relevant information.

1) I, the provider/program director, have asked all volunteers and employees if they have been the subject of an indicated report of child abuse or maltreatment. When any report of child abuse or maltreatment has been indicated against the provider/program director, employee or volunteers, I have given the parent/caretaker a true and accurate written description of the incident, the indication and any other relevant information.

☐ **Yes.**

☐ **No.**

## G. PROVIDER AGREEMENTS AND CERTIFICATIONS

### 1. RECORD KEEPING

- On a daily basis, the provider/program maintains current and accurate attendance records, at the child care program, for each child being cared for, minimally including: the date, arrival time, departure time, and if absent for the full day, a note that the child is absent.

### 2. SUBMITTING UPDATES AND CHANGES OF ENROLLMENT INFORMATION

- I understand that enrollment of this provider/program to provide subsidized child care will only apply to the specific provider/program located at the site specified on page one. If the program relocates temporarily or permanently to a child care location different from the one given on this form, this enrollment will end. To remain eligible to provide subsidized child care I must submit a new enrollment request for the new site to the enrollment agency and begin the enrollment process anew.
- I understand that if, in the future there are new employees or volunteers, the requirements on pages 11-12 for Criminal History and Child Protective Indicated Reports apply to them.
- I understand I am required to inform the enrollment agency promptly if I add any new employees or volunteers who have a criminal conviction so their criminal history can be evaluated.

- I understand that the decision to enroll the program is based on the facts provided on the enrollment form and when there is a change to any of the information I have attested to, my eligibility to provide subsidized child care may also change. I will inform the enrollment agency immediately if there are changes in any information provided on the enrollment form or changes to the attachments.

### 3. Information Sharing

- I understand the enrollment agency and the local social services district will exchange information regarding the child care program's enrollment status.

### 4. Eligibility and Payment

- I understand that the program cannot be enrolled until all items marked "No" on the Health and Safety Checklist have been corrected.
- I understand that the program must be enrolled with the enrollment agency before any payment can be made.
- The program agrees to maintain and provide accurate attendance records as required by the local social services district.
- The program agrees to collect the family share (fee) if instructed to do so by the local social services district. The program will immediately notify the local social services district if the parent/caretaker fails to pay the required family share.
- I understand that when I, any volunteer who is likely to have regular contact with the child(ren), or any employee has been convicted of a crime, the provider must give the parent and the Enrollment Agency true and accurate information about the crime which will enable the parent and Enrollment Agency to evaluate whether the criminal background poses an unreasonable risk to the safety or welfare of the children.
- I understand that no person convicted of a felony or misdemeanor against children or, for caregivers of legally-exempt family child care, whose household includes an individual convicted of such a crime may be enrolled by a legally-exempt caregiver enrollment agency as a child care caregiver.
- I understand that no legally-exempt informal child care program or legally-exempt group child care program which employs an individual or uses a volunteer convicted of a felony or misdemeanor against children may be enrolled by a legally-exempt caregiver enrollment agency as a child care caregiver.
- I understand a legally-exempt caregiver enrollment agency may enroll a caregiver who has been convicted or whose employee, volunteer or household member has been convicted of other felony or misdemeanor offenses, consistent with guidelines issued by the office for evaluating applicants with criminal conviction records.
- I understand that if the enrollment agency determines the program cannot be enrolled, then the local social services district cannot issue payment for care provided. The program will not be paid by the local social service district for any child care that it provides to a child(ren) receiving a child care subsidy, while the program is deemed an ineligible provider by the enrollment agency. The parent/caretaker has the right and responsibility to decide whether he/she wants to use the program. If the parent/caretaker chooses to use the program when it cannot be enrolled, the parent/caretaker is responsible to pay the program for the child care.

### 5. Additional Requirements for Programs Not Operating Under The Auspices Of Another Government Agency-Only

*(This section does not apply to programs operating under the auspices of another government agency).*

- I understand the program may not be eligible to provide child care AND that the local social services district may not be able to pay the program when:
  - I have a history of Article 10 (child protective) removal of a child by family court order, or
  - I have a history of termination of parental rights, or
  - I have a history of denial, revocation and/or suspension of a license or registration to operate a child day care program.
- I understand the provider/program may request, within 30 days of the Notice Date, that the enrollment agency review any extenuating circumstances, when the program's enrollment is denied or terminated based on:
  - Article 10 (child protective) removal of a child by family court order, or
  - History of termination of parental rights, OR
  - History of denial, revocation and/or suspension of a license or registration to operate a child day care program.

### 6. Other Agreements

- I agree to operate in compliance with all applicable State and local laws.
- I understand and agree the program will allow the parent/caretaker unlimited and on demand access including:
  - Access to the parent's/caretaker's child(ren),
  - The right to inspect at any time during the hours of operation, all parts of the facility used for child care or which could present a hazard to the heath and/or safety to the child(ren),
  - Access to the providers/caregivers caring for the child(ren),
  - Access to written records about the parent's/caretaker's child(ren) except when otherwise restricted by law.
- I understand and agree that the program will allow representatives of the enrollment agency, the local social services district and the State of New York access to the premises where subsidized child care is provided to confirm that information on my enrollment form and/or on attendance forms is true and accurate and that child care services are being provided as listed on these forms. I understand that if I do not allow such access, then the program will be considered ineligible, the program's enrollment will be terminated and the program will not be paid by the local social services district.
- I understand and agree to meet all of the conditions stated on this form for as long as I am providing child care. I understand that I am required to inform the enrollment agency and the parent/caretaker if there is a change in the information stated on the enrollment form.

## H. Certification

### 1. Provider Certification

By signing this form I certify to the best of my knowledge that:

- I understand and agree to continue to meet all conditions stated above.
- I have reviewed the "Parent Information Section" of this form.
- I understand the decision to enroll the program is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If I provide child care services while enrolled under false pretenses, or while I am an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, take legal action against the provider/program or the parent/caretaker and the provider/program may be required to repay any money I receive for such services.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| **X** | |

### 2. Parent Certification

I have reviewed the "child care provider" section of this form. Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| **X** | |

# II. PARENT INFORMATION SECTION

*The parent/caretaker receiving or applying for child care subsidy must complete this section AND review the "Child Care Provider" Section. The provider must review and sign this section.*

## A. PARENT/CARETAKER[9] INFORMATION

**1. Parent/Caretaker's Name**:

☐ Mr. ☐ Mrs. ☐ Ms.

Last First MI Suffix

Other names known by:

Maiden, married, aliases, etc

**2. Identifying and Contact Information**:

Date of Birth: / / (mm/dd/yyyy) Home Phone: ( ) ☐ Listed ☐ Unlisted

Work Phone: ( ) Cell Phone: ( )

E-Mail Address:[10] _____ ☐ No E-Mail Address

**3.** Do you read English? ☐ **Yes** ☐ **No.** If No what languages do you read best? _____

**4.** Do you speak English? ☐ **Yes** ☐ **No.** If No, what languages do you speak best? _____

**5. Home Address**:

House Number Street Apt.

Address Line 2 Floor

City State Zip County/Borough

**6. Mailing Address:** Is your mailing address the same as your home address? ☐ **Yes** ☐ **No.** If no, give mailing address below.

House Number Street Apt.

Address Line 2 Floor

City State Zip County/Borough

**7. Parent's /Caretaker's Child Care Subsidy Case[11]:**

Subsidy Paying County: Temporary Assistance No.:

Subsidy Case Number: Parent's CIN Number:

**8. Child Care Provider's Name:**

☐ Mr. ☐ Mrs. ☐ Ms. _____

Last First MI Suffix

[9] Caretaker means the child's parent, legal guardian, caretaker relative or any other person with whom a child lives and who has assumed responsibility for the day-to–day care and custody of the child.

[10] The e-mail address if given may be used by the enrollment agency to contact you.

[11] The Temporary Assistance Number, Subsidy Case Number and Parent's CIN (Client Identification Number) are optional. If given, they will be used to facilitate information sharing with the local social services district regarding your eligibility and payment for child care.

## B. CHILD(REN) IN THE PROVIDER'S CARE

### 1. MY CHILD(REN) THAT THE PROVIDER CARES FOR.

A) Child's Name: _____
Last First

District CIN: _____ Date of Birth: / / (mm/dd/yyyy) ☐ Male ☐ Female Gender

B) Child's Name: _____
Last First

District CIN: _____ Date of Birth: / / (mm/dd/yyyy) ☐ Male ☐ Female Gender

C) Child's Name: _____
Last First

District CIN: _____ Date of Birth: / / (mm/dd/yyyy) ☐ Male ☐ Female Gender

D) Child's Name: _____
Last First

District CIN: _____ Date of Birth: / / (mm/dd/yyyy) ☐ Male ☐ Female Gender

### 2. MY CHILD(REN)'S MEDICATION NEEDS

A). Child care providers/programs ***can only administer medication in accordance with State Laws and regulations.***

1) OCFS does NOT oversee the administration of medication by legally-exempt group programs operating under the auspices of a federal, State or local government or tribal agency (see pages 3-5). Such programs must follow the regulations set forth by the federal, State or local government or tribal agency that the program is operating under. If your child is attending such a program, ask the program about its medication administration policies.

2) OCFS **DOES** OVERSEE administration of medication by legally-exempt group *programs* ***NOT*** *operating under the auspices of a federal, State or local government or tribal agency* (see pages 3-6).

a) Review pages 7-8 to determine if the child care program is authorized to administer medication. When the child care program IS AUTHORIZED by OCFS and following a Health Care Plan for the Administration of Medication, the *medications administrant* designated in the Health Care Plan for the Administration of Medication may administer over-the-counter medication and some prescription medication to subsidized child(ren) with the permission of the parent and following physician's instructions.

b) When the child care program is authorized by OCFS to administer medication and following a Health Care Plan for the Administration of Medication, the child's parent/caretaker may choose to allow the program to be responsible for the medication needs of the child. When the child care program is responsible for medication administration, the parent must provide written permissions and physician's instructions to the child care program.

c) Parent/Caretaker, indicate below your decision on who will be responsible for administering medication to each of your child(ren).

*I, the parent/caretaker, have read the Provider's Qualifications to Administer Medication on pages 7-8 and the section above. I understand whether this provider/program is or is not legally permitted to administer medication to my child(ren) and my plan is: (Choose the correct statement(s) below and list children's names).*

☐ The Child Care Program is NOT *legally permitted* to administer medication to my children, AND, I, the *parent/caretaker* will be responsible for the medication needs of (list children's names):

_____

☐ Although, the Child Care Program is *legally permitted* to administer medication to my children; I, the *parent/caretaker* will be responsible for administering medication to my child (ren):

_____

☐ The Child Care Program is *legally permitted* to administer medications through its Health Care Plan for the Administration of Medication. The *medications administrant*(s) designated in the program's Health Care Plan for Administration of Medications will administer medication to my child(ren) in accordance with the procedures set forth in the Child Care Program's Health Care Plan for the Administration of Medication. The CHILD CARE PROGRAM[12] will be responsible for administering medication to my child (ren):

_____

### 3. My Child(ren)'s Meals and Snacks

For each of my child(ren) in the provider's care, either the parent or the provider must provide meals and snacks. Who will provide meals and snacks for your child(ren) while in care?

☐ The parent/caretaker will be responsible for the meals and snacks for the following child(ren):

_____

☐ The provider/program will be responsible for the meals and snacks for the following child(ren):

_____

## C. Relevant History of the Provider and People At the Child Care Location

1. I understand the child care provider **must tell me** whether the provider, employees and volunteers who are likely to have regular contact with child(ren) in care, have been the subject of an indicated report of child abuse or maltreatment.
   - I have <u>specifically asked</u> the provider if the provider, volunteers who are likely to have regular contact with child(ren) in care and/or employees, have been the subject of an indicated report of child abuse or maltreatment.
   - The provider has informed me whether any indicated reports of child abuse or maltreatment exist, which name as subject of the report: the provider, employees and/or volunteers who are likely to have regular contact with child(ren) in care.
   - When an indication of child abuse or maltreatment exists, the provider has given me **written information** regarding such indication of child abuse or maltreatment, including: **a description of the incident, the date of the indication and any other relevant information.**
   - I understand I have the right to select another provider. I agree that I have carefully considered the information on child abuse and maltreatment indications that I have been given and I am selecting this provider.

     ☐ **Yes.**
     ☐ **No.**

[12] The program may only be chosen to be responsible for medication administration when the program is legally permitted to administer medication.

## D. Parental Acknowledgements & Certifications

### 1. Parent Responsibilities to Monitor Quality of Care

- I understand it is my responsibility to choose a provider that meets the needs of my child(ren). I certify that I have selected this provider/program to care for my child(ren).
- My child care provider/program must give me unlimited and on demand access including:
  - Access to my child(ren),
  - The right to inspect, at any time during the hours of operation, all parts of the facility used for child care or which could present a hazard to the heath and/or safety of my child(ren),
  - Access to the provider/caregivers caring for my child(ren),
  - Access to written records about my child(ren) except when otherwise restricted by law.
- I understand the provider/program director *must provide me with a written statement* indicating whether the provider/program director, any program employee, and/or any volunteers who are likely to have regular contact with children in care has been the subject of any indicated report of child abuse or maltreatment, including: a description of the incident, the date of the indication and any other relevant information.
- I understand it is my responsibility to monitor the quality of care my child(ren) receives from the child care provider/program. I understand that these agreements apply for as long as this provider is caring for my child(ren).

### 2. Changes to Enrollment Information

- I will notify the enrollment agency immediately if:
  - My address or phone number changes,
  - I have any concerns about the health and safety of my child(ren) in the provider's care.

### 3. Eligibility and Payment Issues

- I understand that this enrollment applies ONLY to the provider/program and the location of care listed on page one. If the provider/program OR the location of care changes, this enrollment ends, and I must submit a new enrollment form for the new provider/program or the new location.
- I will immediately notify the local social services district and my provider if the hours that I need child care or other circumstances related to my need or eligibility for child care change.
- I agree to pay my family share (fee), if any, as directed by the local social services district.
- I understand that the provider/program must be accepted for enrollment with the Enrollment Agency before any payment can be made.
- I understand a provider/program may not be eligible to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren) or any employee has been convicted of a crime.
- I understand a provider/program *is not eligible* to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren), or any employee has been convicted of a *crime against a child.*
- I understand that if the provider/program is denied enrollment or has his or her enrollment terminated, the provider/program will be considered ineligible to provide child care. The local social services district cannot pay the provider/program or issue payment for care given by a provider/program who cannot be enrolled or who is ineligible.
  - If I choose to use an ineligible provider/program, I am responsible to pay for the child care myself.
  - I understand I have the right to select another provider/program.

### 4. Program Not Operating Under The Auspices Of Another Government Agency

- For the duration of the enrollment, the provider must meet all the basic health and safety requirements listed on the Health and Safety checklist. The provider/program director and I have inspected the program site and completed the Health and Safety checklist together. All statements on the Health and Safety checklist- located in the Child Care Provider Section-of this form are true and accurate.
- I understand, that for group child care programs not operating under the auspices of another federal, State, or local government or tribal agency, payment cannot be made until all items marked "No" on the Health and Safety Checklist have been corrected.
- The provider and I will notify and provide documentation to the enrollment agency when any item on the checklist has been corrected or changed.
- I understand that my provider/program may not be eligible to provide child care and that the local social services district may not be able to pay the provider when the provider has a history of:
  - Termination of parental rights, or
  - Article 10 (child protective) removal of a child(ren) by family court order, or
  - Denial, revocation and/or suspension of a license or registration to operate a child day care program.

## 5. Parent Certification

By signing this form I certify to the best of my knowledge that:

- I have reviewed the “Child Care Provider” section of this form.
- I understand and agree to continue to meet all conditions stated above.
- I understand the decision to enroll my provider is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my provider’s eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If my provider/program provides child care services while enrolled under false pretenses, or while the provider/program is an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, and/or take legal action against me or the child care provider.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| **X** | |

## 6. Provider Certification

I have reviewed the “Parent Information Section" of this form. Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| **X** | |

**This enrollment form is a legal agreement. Make a copy of this form for your records.**
**Return this form and its attachments to:**

# 12-OCFS-LCM-01
# *Changes to the Legally-Exempt Child Care Provider Enrollment Process*

The purpose of this Local Commissioners Memorandum (LCM) is to inform the Social Services Districts (districts) of changes in the Legally-Exempt Child Care Provider (LECCP) enrollment process and of planned enhancements to the Child Care Facility System (CCFS) that will impact district procedures. This LCM also clarifies the districts' roles and responsibilities in the enrollment of LECCPs for the purpose of providing child care subsidized by the New York State Child Care Block Grant (NYSCCBG).

New and revised enrollment forms, to be distributed by districts to applicants and recipients of child care services who choose to use an LECCP, are provided, as is a new state form for notifying legally-exempt caregiver enrollment agencies (enrollment agencies) of district decisions relevant to enrollment.

Finally, we discuss a 2010 change in Social Services Law Section 410-x, subdivision 7, which allows a district to suspend the eligibility of an LECCP who is the subject of a report of child abuse or maltreatment that is under investigation by Child Protective Services (CPS).

This page intentionally left blank.

**Andrew M. Cuomo**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**Gladys Carrión, Esq.**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | 12-OCFS-LCM-01 |
| **To:** | Local District Commissioners |
| **Issuing Division/Office:** | Division of Child Care |
| **Date:** | February 3, 2012 (Revised February 8, 2012) |
| **Subject:** | **Changes to the Legally-Exempt Child Care Provider Enrollment Process** |
| **Suggested Distribution** | Directors of Social Services and Temporary Assistance<br>Child Care and Temporary Assistance Staff<br>Accounting and Child Welfare Supervisors<br>LAN Administrators |
| **Contact Person:** | See page 11 |
| **Attachments:** | Attachment A: OCFS-LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care (Rev. 6/2011)<br>Attachment B: OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care (Rev. 6/2011)<br>Attachment C: OCFS-2114 (9/2011), District Notification To Legally-Exempt Caregiver Enrollment Agency<br>Attachment D: Model Non-disclosure Agreement for District and Contractor<br>Attachment E: Model Non-disclosure Agreement for District and Contractor's Employee<br>Attachment F: OCFS-LDSS-4699.1, Employment of Minors Form (Rev. 9/2010)<br>Attachment G: OCFS-LDSS-4699.1A, Employment of Minors, Information (Rev. 9/2010)<br>Attachment H: OCFS-LDSS-4699.2A, Parental Responsibilities When Employing a Legally-Exempt In-Home Child Care Provider (Rev. 8/2010)<br>Attachment I: OCFS-4915, History of Criminal Convictions and Parental Acknowledgment (7/2010)<br>Attachment J: OCFS-4916, History of Day Care Enforcement and Parental Acknowledgment (7/2010)<br>Attachment K: OCFS-4917, History of Termination of Parental Rights and/or Court–Ordered Article 10 Removal and Parental Acknowledgment (7/2010) |
| **Attachments Available Online:** | Attachments A, B, F, G, H, I, J and K are available at the OCFS Forms website: http://www.ocfs.state.ny.us/main/forms/<br>All of the attachments are available, listed with this policy, at the OCFS policies |

❑

| | |
|---|---|
| | websites:<br>http://ocfs.state.nyenet/policies/external (intranet)<br>http://www.ocfs.state.ny.us/main/policies/external (internet) |

## I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform the Social Services Districts (districts) of changes in the Legally-Exempt Child Care Provider (LECCP) enrollment process and of planned enhancements to the Child Care Facility System (CCFS) that will impact district procedures. This LCM also clarifies the districts' roles and responsibilities in the enrollment of LECCPs for the purpose of providing child care subsidized by the New York State Child Care Block Grant (NYSCCBG). New and revised enrollment forms, to be distributed by districts to applicants and recipients of child care services who choose to use an LECCP, are provided, as is a new state form for notifying legally-exempt caregiver enrollment agencies (enrollment agencies) of district decisions relevant to enrollment. Finally, we discuss a 2010 change in Social Services Law Section 410-x, subdivision 7, which allows a district to suspend the eligibility of an LECCP who is the subject of a report of child abuse or maltreatment that is under investigation by Child Protective Services (CPS).

## II. Background

The federal guidelines require that all states have requirements in place designed to protect the health and safety of children applicable to the providers who serve children under the Child Care and Development Fund (CCDF), one of the primary federal sources for the NYSCCBG. In NYS, to provide child care services under the NYSCCBG, all child care providers must demonstrate they meet basic health and safety standards through one of the following processes: Licensing, Registration or Enrollment.

New York State Social Services Law (SSL) §390 defines "child day care" and mandates which providers must be licensed or registered to operate a child care program in New York State. Providers and programs not required to be licensed or registered have come to be known as "legally-exempt." In accordance with federal guidelines, the enrollment process was developed to establish a set of health and safety requirements for the otherwise unregulated "legally-exempt" child care providers (LECCP) and programs to establish their eligibility to provide subsidized child care services.

## III. Program Implications

### *Jurisdiction*

Prior to the release of this LCM, the enrollment agency with jurisdiction for the enrollment of LECCPs outside of New York City was the district where the child resided, usually the district issuing the subsidy. Effective upon release of this LCM, *the enrollment agency with jurisdiction will change to the enrollment agency serving the district* where *the child care site is located.* **This change takes place immediately for all newly enrolling LECCPs. For LECCPs who are currently enrolled, the enrollment agency must transfer the child care provider's enrollment to the appropriate enrollment agency at the next case action, or at re-enrollment.**

This jurisdictional change is reflected on page one of the revised enrollment forms. Districts must make corresponding changes in the cover letter given to applicants/recipients of child care assistance to

instruct them to return the enrollment packet to the enrollment agency serving the county where the child care site is located. Please refer to Attachment A, OCFS-LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care (Rev. 6/2011) and Attachment B, OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care (Rev. 6/2011).

The *district in which the LECCP resides* still remains responsible for conducting the state-required child welfare database check for the LECCP's history of termination of parental rights and court-ordered removal/placement of a child under Family Court Act Article 10, as well as the review of extenuating circumstances. For districts situated along the New York State border with other states and/or Canada, there will be times when the child care provider does not reside within New York State. In those situations, the enrollment agency will identify an otherwise affiliated district within New York State, usually the subsidy-issuing district, to perform the child welfare database check.

The *subsidy-issuing district* still remains responsible for evaluating the LECCP's compliance with any state–approved additional local standards for enrollment. Districts must inform the OCFS Division of Child Care Services (DCCS) if they intend to exempt child care providers who provide child care in a location out of the county, state, or country from any additional local standard for enrollment. This may be done by specifying the exemption in the Child and Family Services Plan.

***CCFS Enhancements***

At present, all districts, in collaboration with enrollment agencies, have processes in place to perform their roles related to legally-exempt child care subsidized under the NYSCCBG. However, CCFS enhancements planned by OCFS will drive changes in existing enrollment processes. Districts must assess the extent to which these changes will have an impact on their work processes for carrying out local responsibilities including, but not limited to, conducting the local child welfare database checks and authorizing child care payments. Upon the implementation of the planned CCFS enhancements:

- CCFS will automatically provide enrollment-related notifications, hereafter referred to as E-notices, directly to districts via E-mail delivered to the address created by the districts for this purpose. The E-notices will identify enrollment-related tasks which the district is required to perform. E-notices from CCFS to districts will not contain personal identifiers for either LECCPs or persons included on subsidy cases. Districts will be instructed to run a report in CCFS to retrieve the specific LECCP and subsidy case-level information required to complete the enrollment-related task.
- To the extent that CCFS performs an automated notification or referral function, enrollment agencies will be relieved of that notification responsibility. Enrollment agencies will no longer be required to routinely provide districts with copies of enrollment forms or notifications.
- Districts will have the option of updating a subsidy case decision directly in CCFS instead of informing the enrollment agency in writing.

CCFS will record when updates are made to the system and who makes them. This will eliminate the need to have some documents exchanged between the local districts and the enrollment agencies, thus saving time and money for districts and enrollment agencies.

### *CCTA-CCFS Interface*

All child care providers providing care subsidized under the NYSCCBG must meet state health and safety requirements. Prior to issuing payments for child care services, local districts must verify that a child care provider was "eligible" to provide subsidized care during the period care was provided. With the exception of day care centers in New York City, CCFS is the system of record for all licensed, registered and enrolled child care providers in New York State. CCFS documents child care provider compliance with state health and safety requirements and other information necessary to determine provider eligibility for payment. With the advent of the Child Care Time and Attendance System (CCTA), the provider eligibility verification process is partially automated, as the nightly CCTA interface with CCFS draws the information needed to determine whether pending payments are payable (eligible), not payable (not eligible), or need review by the district.

### *District Suspension of Legally-Exempt Child Care Provider Eligibility*

Social Services Law (SSL) § 410-x (7) permits districts to suspend an LECCP from providing child care services funded under the NYSCCBG when the LECCP is the subject of a report of child abuse or maltreatment under investigation by CPS. Districts that elect to suspend any of these providers must develop written local policy and procedures, in accordance with the guidance in this LCM, to support staff in their decision-making. The district must inform the applicable enrollment agency, in writing, at the start and end of each suspension. OCFS-2114 (7/2011), District Notification To Legally-Exempt Caregiver Enrollment Agency, included as Attachment C, may be used for this purpose. Upon receiving such notification, the enrollment agency documents the suspension in CCFS. The subsequent change in the provider's CCFS record will be transmitted to CCTA during the nightly CCTA-CCFS interface and result in an advisement to the district to stop payment.

## IV. Required Action

### *Receipt of CCFS E-notices, Retrieval of Reports, and Completion of Required Actions*

Automated CCFS E-notices sent to districts will be of two kinds: those containing a required action and those for informational purposes. When an E-notice contains a required action, the required action must be completed in the time frame indicated on the E-notice. E-notices will refer the district to a specific CCFS report for the confidential, provider-specific information needed to perform the task. To prepare, each local district must:

- Establish an E-mail account box solely for the purpose of receiving E-notices from CCFS. The E-mail address must be a single E-mail address that should be structured so that it is not subject to frequent change. It may represent a distribution list or mailbox. Access and management of the generic E-mail address is the responsibility of the district.
- Designate a primary contact person and a backup contact person who will be responsible for monitoring the mailbox.
- Within one month of the issuance of this LCM, notify Ann Haller, in writing, at the Division of Child Care Services, Child Care Subsidy Unit, at Ann.Haller@ocfs.state.ny.us of:
    1. The E-mail address to which E-notices will be sent from CCFS to the district.

2. The designated contact persons at the district, including a backup contact person, who will be responsible for managing the CCFS mailbox for your district. Include for each person: name, title, E-mail address and phone number.

- Develop a process to ensure that the required actions included on the E-notice are completed within the specified time frame. The local process must include timely review of all E-notices, *recommended to be done each business day*; completion of the required actions; and timely written response to the designated enrollment agency. Districts must identify individuals who will be responsible for reviewing E-notices and running reports in CCFS. Districts may wish to assign different program areas (child care subsidy unit, child welfare unit, accounts payable, fraud prevention, etc.) and staff to be responsible for the timely review and required actions for different *types* of E-notices, based on the content of the "subject line." Note that the personal information of LECCPs *will not* be transmitted in the E-notices. The district must utilize the specified CCFS reports to obtain a list of specific LECCPs for whom local district action is required. The subject lines and brief descriptions of the CCFS E-notices are listed below for your reference and planning.

  1. LE-CCFS LD-001, Legally-Exempt Child Welfare Referral List: This notice informs the district that there are one or more legally-exempt child care providers for whom the district must conduct a check of the local child welfare database to determine if the district has a record showing the provider had a child removed from his or her care by court order under Family Court Act Article 10 or had his or her parental rights terminated under Social Services Law 384-b. The notice informs the district to run the *LE Child Welfare Database Referral List (DSS)* report in CCFS to obtain the detailed listing of providers.
  2. LE-CCFS LD-002, Legally-Exempt Child Welfare Database Results Due/Overdue: This notice informs the district that the results of the child welfare database checks, requested in E-notice number one, are overdue. The district must run the *LE Child Welfare Database Results Due/Overdue (DSS)* report in CCFS to obtain the detailed listing of providers.
  3. LE-CCFS LD-003, Legally-Exempt Additional Standard Referral: This notice informs the district that there are one or more legally-exempt child care providers for whom the district must conduct the OCFS-approved additional local standard process specified in the district's approved Child and Family Services Plan. The district must run the *LE Additional Standard Referral List (DSS)* report in CCFS to obtain the detailed listing of providers and other persons to whom the standard applies.
  4. LE-CCFS LD-004, Legally-Exempt Additional Standards Due/Overdue: This notice informs the district that the results of the OCFS–approved, additional local standard, requested in E-notice number three, are overdue. The district must run the *LE Additional Standards Due/Overdue (DSS)* report in CCFS to obtain the detailed listing of providers.
  5. LE-CCFS LD-005, Legally-Exempt Child Welfare Extenuating Circumstances Review Referrals: This notice informs the district that there is one or more legally-exempt child care providers for whom the district must conduct a review of extenuating circumstances related to the provider's child welfare history. The district must run the *LE Child Welfare EC Review Referrals (DSS)* report in CCFS to obtain the detailed listing of providers. The district must, in accordance with the Guide to Enrollment, conduct the

review of extenuating circumstances and determine whether an exception can be made to the presumption against enrollment.

6. LE-CCFS LD-006, Legally-Exempt Family Child Care & In-Home Training Approvals by Approval Date: This notice informs the district that a legally-exempt child care family or in-home provider for whom the district issues a subsidy has met the requirement for the enhanced rate of reimbursement. The district must run the *LE FCC & IH Training Approvals by Approval Date (DSS)* report in CCFS to obtain the provider-specific data and apply the enhanced market rate for a 12-consecutive-month period, starting no later than the beginning of the first full month following the date of the E-notice.
7. LE-CCFS LD-007, Legally-Exempt Parent-Provider Eligibility Changes: This notice informs the district that an enrollment agency has made changes to a family decision and/or to the enrollment status of a provider that may impact issuance of subsidy payments. The district may obtain specific information regarding changes made to a family decision and/or to the enrollment status of a provider by running the *LE Parent-Provider Notification of Eligibility Changes (DSS)* report in CCFS.

- Obtain appropriate permissions in CCFS for designated local district staff. District staff with a role in the enrollment process may request "view" access to relevant CCFS data. District staff performing child care subsidy-related functions and who plan to enter data directly into CCFS may request "data entry" access to CCFS. With the planned CCFS enhancements, districts will have the option of updating the subsidy case decision directly in CCFS instead of informing the enrollment agency in writing. Requests for access to CCFS must be directed to the CCFS Security Administrator, Shane Stone, by E-mail: Shane.Stone@ocfs.state.ny.us.

***CCFS Training***

District staff and/or subcontractor staff who are responsible for retrieving CCFS reports, including lists of providers for whom an action is required, must participate in training to learn how variable report parameters will affect the data retrieved. CCFS training for district staff is currently under development. Topics covered in the CCFS training will include: "searching" in CCFS, reviewing the provider profile, running reports, understanding report data, using CCFS to determine providers' eligibility for payment, and entering data on local district screens in CCFS. CCFS training for districts will be available one to two months prior to implementation of the above described CCFS enhancements. OCFS will inform district Staff Development Coordinators when the training will be available.

***Subcontractors***

- When a district uses a subcontractor that requires CCFS, the subcontractor must submit requests for CCFS access to the district for pre-approval. The district then forwards the locally approved requests to the CCFS Security Administrator, Shane Stone. The subcontract agency staff must not be represented as district staff.

- We are now requiring districts that use subcontractors for any task requiring access to CCFS and CCTA to have appropriate written non-disclosure agreements in place to protect and preserve

confidentiality of data and information, prior to pre-approving any request for state system access. OCFS has prepared model forms which may be used for this purpose:

- Model Non-disclosure Agreement for District and Contractor, Attachment D
- Model Non-disclosure Agreement for District and Contractor's Employee, Attachment E

***Revised LECCP Enrollment Forms and Attachments***

The enrollment forms for legally-exempt child care providers and the required attachments to the enrollment forms have been updated to address the changes in enrollment agency jurisdiction and other policy issues. Per 18 NYCRR 415.4(f), the district must provide an enrollment form and applicable required attachments to each child's parent/caretaker who has applied for, or is receiving, child care subsidies under the NYSCCBG and who chooses an LECCP to care for his or her child.

Districts must use the most recent revisions of the LECCP enrollment forms and required attachments. The enrollment forms and required attachments are listed in Table One with their most recent revision dates. Spanish versions of these forms are available on the OCFS website. To access the enrollment forms, go to the main OCFS internet site, www.ocfs.state.ny.us, then navigate the following path: Forms> Child Care> Legally-Exempt Provider Forms.

Within 30 days of the release of this LCM, districts must make corresponding changes in cover letters and local forms to instruct applicants/recipients of child care assistance to return the enrollment packet to the enrollment agency *serving the county where the child care site is located.*

Changes to the enrollment forms are described below.

- OCFS-LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care, and the OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care, have been reformatted for ease of completion and data entry.
- OCFS-LDSS-4699.1, Employment of Minors Form (Rev.9/2010), Attachment F, and OCFS-LDSS 4699.1A, Employment of Minors, Information (Rev. 9/2010), Attachment G, have been updated to address the exception inherent in the New York State Labor Law (NYSLL) pertaining to minors who are providing legally-exempt in-home child care. Detailed information is available in OCFS-LDSS 4699.1A, Employment of Minors, Information (Rev. 9/2010).
- OCFS-LDSS-4699.2A, Parental Responsibilities When Employing a Legally-Exempt In-Home Child Care Provider was updated and is included as Attachment H.
- OCFS-LDSS-4699.4, Parental Acknowledgment, has been discontinued and replaced by three forms specific to the safety issue being acknowledged by the parent:
  - OCFS-LDSS-4915, History of Criminal Convictions and Parental Acknowledgment,
  - OCFS-LDSS-4916, History of Day Care Enforcement and Parental Acknowledgment, and
  - OCFS-LDSS-4917, History of Termination of Parental Rights and/or Court–Ordered Article 10 Removal and Parental Acknowledgment.

They are included as Attachments I, J and K, respectively.

**Table One-Enrollment Forms and Required Attachments with Revision Dates**

| Form Number and Name | Revision Date |
|---|---|
| OCFS-LDSS-4699, Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care | 6/2011 |
| OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care | 6/2011 |
| OCFS-LDSS-4699.1, Employment of Minors Form | 9/2010 |
| OCFS-LDSS-4699.1A, Employment of Minors, Information | 9/2010 |
| OCFS-LDSS-4699.2, Legally-Exempt In-Home Child Care Provider Agreement Form | 7/2006 |
| OCFS-LDSS-4699.2A, Parental Responsibilities When Employing a Legally-Exempt In-Home Child Care Provider | 8/2010 |
| OCFS-LDSS-4699.3, Legally-Exempt Provider Training Record Form | 7/2006 |
| OCFS-LDSS-4915, History of Criminal Convictions and Parental Acknowledgment | New in 7/2010 |
| OCFS-LDSS-4916, History of Day Care Enforcement and Parental Acknowledgment | New in 7/2010 |
| OCFS-LDSS-4917, History of Termination of Parental Rights and/or Court–Ordered Article 10 Removal and Parental Acknowledgment | New in 7/2010 |

*With the exception of OCFS-LDSS-4700, Enrollment Form for Provider of Legally-Exempt Group Child Care, Spanish versions of the above forms are available online.*

***New Form to Standardize Districts' Notifications to Enrollment Agencies***

The new **OCFS-2114 (7/2011), District Notification To Legally-Exempt Caregiver Enrollment Agency**, provides a standard form for districts to use in informing enrollment agencies of subsidy case decisions which may impact the provider's eligibility and enrollment status as an LECCP. The district must inform the enrollment agency, in writing, of the following determinations or results pertaining to a legally-exempt child care provider and relevant changes to the affiliated child care subsidy case:

1. The results of the local child welfare database check required at enrollment and re-enrollment. Per 18 NYCRR 415.4(f)(8)(ii), the district where the legally-exempt in-home or family child care provider resides must, within 15 days of the receipt of the request for a check of the local Child Welfare Database Check at initial enrollment and re-enrollment, conduct a check of the district's local Child Welfare Database, and inform the enrollment agency whether the LECCP:

   - Does or does not have a history of termination of parental rights under SSL 384-b, and
   - Does or does not have a history of court-ordered removal/placement of a child under Family Court Act Article 10.

   Note that due to the highly confidential nature of the child welfare database, districts must release to the enrollment agency *only that information which is specifically allowed by regulation and/or law*. The district must assign responsibility for searching the database only to employees of the district who understand the confidentiality issues pertaining to foster care and adoption information.

Additionally, sharing indicated or unfounded reports in the Statewide Central Register of Child Abuse and Maltreatment with the enrollment agency is prohibited.

2. The results of the district's determination of compliance with any OCFS-approved additional local standard for legally-exempt child care enrollment. Per 18 NYCRR 415.4(g), to the extent that any district has established additional standards for LECCPs, the local district must evaluate the LECCPs' compliance with state-approved additional local standard(s) for enrollment set forth in the district's Child and Family Services Plan. For all additional standards that are evaluated during the initial enrollment or annual re-enrollment process, the district must inform the enrollment agency whether the requirement(s) has been met or has not been met within 25 days of the receipt of the notification.

3. The results of the district's review of extenuating circumstances pertaining to child welfare history, within 60 days of the receipt of the request for the review. The results must include whether the district has:

   - Granted an exception to the presumption against enrollment, because the provider has demonstrated to the district's satisfaction that enrollment will not jeopardize the health, safety or welfare of children in the provider's care, thus allowing the provider to be considered for enrollment; or,
   - Denied an exception to the presumption against enrollment, thus precluding the provider from enrollment.

4. The district's determination that the LECCP is not eligible to provide care *for a specific family*, per 18 NYCRR,
   - 415.1(l), because the provider is an adult member of this family's Child Care Services Unit who is not a sibling to the child(ren).
   - 415.1 (g)(6) and (7) and 415.4(c)(1)(i), because the recipient may not choose an LECCP when Title XX funding is being used to pay for child care services.
   - 415.4(c)(1)(ii), the district has disapproved a provider chosen by recipient in a preventive or protective services case because the district has reason to believe it would be contrary to the health, safety or welfare of the child to receive child care services from the provider.

5. In accordance with SSL 410-x (7),

   - The district *has suspended a legally-exempt child care provider's eligibility to care for* <u>*all*</u> *subsidized children*, while the provider is under investigation for child abuse or maltreatment; or,
   - The district's suspension of eligibility to provide subsidized child care for an LECCP *has ended*.

6. If applicable, that the district has *disqualified* an enrolled provider from receiving payment under the child care subsidy program per 18 NYCRR415.4(h). The notification must include the disqualification period start date, and, if applicable, the disqualification period end date.

7. If applicable, that the district has reason to believe an enrolled or enrolling LECCP is violating health and safety regulations pertaining to subsidized legally-exempt child care and is making a complaint to the enrollment agency.

8. A child care subsidy case decision or change which impacts the provider's enrollment:

- The approval date and child care subsidy start date for a parent's subsidy case,
- Disapproval or closing of the parent's case,
- When a parent with subsidy stops or begins using the LECCP, and/or
- When a parent reports a change in the location where child care is given.

***District Suspension of Legally-Exempt Child Care Provider Eligibility***

Districts may elect to suspend the eligibility of LECCPs who are under investigation for child abuse or maltreatment, in accordance with SSL 410-x (7). To the extent a district elects this option, the district must develop and implement a local policy to guide decision-making. The policy must:

1. Identify which modalities of legally-exempt child care will be included:

- Legally-exempt in-home child care,
- Legally-exempt family child care,
- Legally-exempt group providers operating under the auspices of another government or tribal agency, and/or
- Legally-exempt group providers not required to operate under the auspices of another government or tribal agency.

2. Specify whether the suspension of eligibility will be applied to <u>all</u> LECCPs with the modality identified in step number one; or, if not, identify the risk or safety related criteria that will be used to determine which providers in the designated modalities will have their eligibility to provide subsidized child care suspended while a CPS report is under investigation.

3. Specify how the population of enrolled or enrolling legally-exempt child care providers specified in steps one and two, who are under investigation for child abuse or maltreatment, will be identified by the district and which district staff will be responsible for informing the enrollment agency of the beginning and ending of the suspension of eligibility for child care subsidy.

4. The suspension start date can be no earlier than the date the provider is notified, in writing, of the suspension of eligibility.

5. State that the following parties will be informed, in writing, by the district of the suspension of the child care provider's eligibility to provide subsidized child care:

- The enrollment agency responsible for the LECCP enrollment. The district must use the <u>OCFS-2114 (9/2011), District Notification To Legally-Exempt Caregiver Enrollment Agency</u>. ***The correspondence must not disclose the existence of the CPS investigation.*** *Note that the enrollment agency must close the LECCP enrollment upon notification of a district "suspension" of the child care provider's eligibility to provide subsidized child care.*
- The LECCP. The district must provide a contact person at the district who can explain the district's decision to the LECCP. The letter from the district must also state that the suspension of the child care provider's eligibility ends when the CPS investigation ends.

- The applicant/recipient of child care services. The district must use the OCFS-LDSS-4781, Notice of Intent to Change Child Care Benefits, to inform the applicant/recipient that payment for child care services rendered by the provider is suspended and the parent/caretaker should seek another provider. ***The correspondence must not disclose the existence of the CPS investigation.***

6. The enrollment agency will be informed, in writing, by the district when the district's suspension of eligibility to provide subsidized child care for an LECCP *has ended*.

**V. Contacts:**

If you have questions regarding information contained in this LCM, please contact Ann Haller of the OCFS Division of Child Care Services, Child Care Subsidy Unit, at 518 408-0759, or via E-mail at Ann.Haller@ocfs.state.ny.us.

If you have questions regarding access to CCFS, permissions in CCFS, or changes to your district network which may impact E-mail or CCFS, please contact Shane Stone, at 518 473-0486, or via E-mail at Shane.Stone@ocfs.state.ny.us.

If you have problems with CCFS, please contact the Help Desk at 1-800-697-1323.

OCFS forms are available on the OCFS intranet website, http://ocfs.state.nyenet/ and the OCFS internet website, http://www.ocfs.state.ny.us/main/forms/day_care/#dss.

*/s/ Janice M. Molnar*

**Issued By:**
Janice M. Molnar, PhD
Deputy Commissioner
Division of Child Care Services

**NEW YORK STATE**
**OFFICE OF CHILDREN AND FAMILY SERVICES**

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT FAMILY CHILD CARE AND LEGALLY-EXEMPT IN-HOME CHILD CARE

Child Care providers who are not required by NYS law to be licensed or registered to operate a day care program use this form to enroll with a legally-exempt caregiver enrollment agency to provide subsidized child care.

**Instructions:** *Please use black/blue pen.*

- *Provider: Complete the "Child Care Provider Section" of this form.*
- *Parent/caretaker: Complete the "Parent Information Section" of this form.*
- *The provider and parent/caretaker walk though and inspect the site, review sections of the form, then sign and date where indicated.*
- *Submit the completed form to the enrollment agency serving the location where the child care is being provided.*

## I. CHILD CARE PROVIDER SECTION

### A. CHILD CARE PROVIDER AND PROGRAM

1. **Child Care Provider Name:**

☐ Mr. ☐ Mrs. ☐ Ms.

Last First MI Suffix

Other names known by:

Maiden, married, aliases, etc.

2. **Identifying and Contact Information:**

Enrollment Number: (If Applicable) Site Phone: ( ) ☐ Listed ☐ Unlisted

Date of Birth: / / (mm/dd/yyyy) Home Phone: ( ) ☐ Listed ☐ Unlisted

Gender (M or F): Cell Phone: ( )

Social Security # [1]: E-Mail Address[2]: ☐ No E-Mail Address

3. **Child Care Location:** *Give address where child care is provided.*

House Number Street Apt.

Address Line 2 Floor

City State Zip County

4. **Home Address:** Is your home address the same as the child care location given above?
☐ **Yes.** ☐ **No.** *If No, give address below.*

House Number Street Apt.

Address Line 2 Floor

City State Zip County

| **(For Enrollment Agency Use)** | **(For Local District Use)** | |
|---|---|---|
| Received Date: _____ | Parent's Case No.:_____ | Type: ☐WMS ☐Local |
| Complete Date: | LSSD Office/Unit/Wkr. No.: / / | |

[1] The social security number is **required** when the local social services district issues child care subsidy payments directly to a child care provider. Failure to provide the social security number may delay payment. The social security number of provider is **optional** when a local social services district issues child care subsidy checks to the subsidy recipient (parent/ caretaker). If the social security number is provided, it may be used by federal, State and local agencies for federal reporting, to prevent the duplication of services and to prevent fraud.

[2] The E-mail address if given may be used by the enrollment agency to contact you.

5. **Mailing Address:** Is your mailing address the same as the child care location or home address given above?
   ☐ **Yes,** same as child care location. ☐ **Yes,** same as home address.
   ☐ **No.** *If No, give address below.*

House Number Street Apt.

Address Line 2 Floor

City State Zip County

6. Were you previously enrolled as a legally-exempt child care provider?
   ☐ **Yes.** If **Yes,** give year enrolled, _____, and county where you resided, _____.
   ☐ **No.**
7. List below the Counties/Districts issuing subsidy payments for child care that you currently provide.

   District: _____ Local ID/Vendor Number[3] if any: _____
   District: _____ Local ID/Vendor Number, if any: _____
   District: _____ Local ID/Vendor Number, if any: _____
8. Do you read English? ☐ **Yes.** ☐ **No.** If No, what language do you read best? _____.
9. Do you speak English? ☐ **Yes.** ☐ **No.** If No, what language do you speak best? _____.
10. Does any other person provide child care at the SAME location you intend to provide child care?
    ☐ **Yes. Describe:** _____
    ☐ **No.**

## B. Type of Legally-Exempt Child Care that You Provide:

1. Choose the statement which describes the child care services you provide. *Check ☑ A, B, or C. Provide additional information as indicated.*

   ☐ A) **I am an "In-Home Child Care" Provider.** I provide care **in the child's home** and I care only for children **who live in the home**. *(Provider and parent/caretaker: Please read the OCFS-LDSS-4699.2A, then complete and ATTACH the OCFS-LDSS-4699.2, Agreement For Legally-Exempt In-Home Child Care form.)*

   ☐ B) **I am a "Family Child Care" Provider.** I provide care in my own home, or another person's home. I care for at least one child who **does not live in the home where care is given.** *(Choose ☑ 1, 2, or 3 below, whichever describes your situation best.)*

   ☐ 1) **Relative Care-** I am either the grandparent, great-grandparent, great-great-grandparent, aunt/uncle, great aunt/great uncle, brother/sister or first cousin of **ALL** the children in care; OR

   ☐ 2) I care for no more than 2 children (not counting my own children or any children older than 13 years); OR

   ☐ 3) I care for 3 or more children. However, I never have more than 2 children in care at the same time for more than three hours a day.

   ☐ C) **Other--**I provide care other than choices A or B above. **Explain:** _____
   _____
   _____

   *(You cannot be enrolled until you prove that you are legally-exempt from the licensing and registering requirements).*

2. Are you less than 18 years of age?

   ☐ **Yes.** You must comply with the NYS Department of Labor's requirements. *Provide the documents listed below to show you meet the requirements. Check ☑ to show item is attached.*
   ☐ I have **ATTACHED** the OCFS-LDSS-4699.1, Employment of Minors Form (**Rev. 2010**).
   ☐ I have **ATTACHED** a copy of my *working papers* which are required if I am a minor providing **Family Child Care**. (*Not required for "In-Home" child care providers.)*

   ☐ **No.**

[3] Provider/Vendor Number is an identifying number assigned and used by the local social services district to track the provider.

## C. People Who May Be Present At Child Care Location

People who are present at the child care location when child care is provided and may have contact with child(ren) you care for must have background checks as required by NYS health and safety regulations. These checks apply to the following people:

- An employee-a person you hire to work at the child care location.
- A volunteer-a person who is sometimes at the child care location and who may have contact with the children you provide care for.
- For family child care, a household member-a person who lives in the home where care is provided.

**NOTE:** The *enrolled child care provider* is the person *authorized* to care for the subsidized child(ren). The enrolled child care provider must be present and supervising at all times. Employees, volunteers and household members **CANNOT** substitute for the provider in caring for the child(ren) and cannot be left alone with the child(ren).

1. Do you have any employees or volunteers, as described above?
   ☐ **No.** ☐ **Yes.** *If yes, list all in Table 1, below and attach more sheets as necessary.*

TABLE 1-CHILD CARE PROVIDER'S VOLUNTEERS AND EMPLOYEES

| Name (Include and specify maiden name and any other alias names by which volunteers and employees may be known) | Role: Employee, or Volunteer | Gender (M or F) | Date of Birth |
|---|---|---|---|
| A) Last First MI Suffix | | | / / |
| B) Last First MI Suffix | | | / / |
| C) Last First MI Suffix | | | / / |
| D) Last First MI Suffix | | | / / |
| E) Last First MI Suffix | | | / / |

2. *Only "Family Child Care" providers must answer this following question:*
   Are there any adults, age 18 and older, (not including the child care provider) living in the residence where child care is given? This includes: family members, non-family members, renters sharing the home, apartment mates, adults placed in your care, and any other adult person who lives in the residence where child care is provided.
   ☐ **No.**
   ☐ **Yes.** Identify in Table 2 below everyone who lives in the residence where care is provided. *Attach more sheets as necessary.*

TABLE 2-HOUSEHOLD MEMBERS AGE 18 AND OVER, LIVING AT CHILD CARE SITE

| Name (Include and specify maiden name and any other alias names by which household members may be known) | Gender (M or F) | Date of Birth |
|---|---|---|
| A) Last First MI Suffix | | / / |
| B) Last First MI Suffix | | / / |
| C) Last First MI Suffix | | / / |
| D) Last First MI Suffix | | / / |
| E) Last First MI Suffix | | / / |
| F) Last First MI Suffix | | / / |

## D. Other Qualifications & Program Characteristics

### 1. Provider's Eligibility for Enhanced Rate Based on Training

Have you completed in the **past 12 months**, 10 hours of training aimed at improving the quality of the care you provide?

☐ **Yes.** If **Yes**, you may be eligible to receive an enhanced rate. ***ATTACH*** *the OCFS-LDSS-4699.3- Legally-Exempt Child Care Provider Training Record and your training certificates.*

☐ **No**.

### 2. Federal Food Program Assistance

The Child and Adult Care Food Program (CACFP) helps Family Child Care programs to pay for meals and snacks served to child(ren) in care. Are you currently participating in CACFP?

☐A) **No**. *If you want information about CACFP call: 1(800) 942-3858.*

☐B) **Yes**. *If "yes", provide information about your participation in CACFP and ATTACH proof of your participation dated within the past 12 months below:*

1) Sponsor Agency Name: _____

2) Sponsoring Agency ID Number (if known): _____

3) Your CACFP Provider Number:_____

4) Agreement Number: _____

5) Proof of Participation:

Date on Proof:_____

Type of Proof: (Check ☑ *below to show proof attached)*

☐ CACFP Claim Reimbursement Stub

☐ CACFP Monitoring Checklist (DOH-4118)

☐ CACFP Continuous Application and Agreement (DOH-3705)

### 3. Amount you Charge

Do you charge parents receiving subsidy the same amount that you charge parents for non-subsidy child(ren) of the same age and similar care?

☐A) **Yes.**

☐B) **No.** If, **No** choose the statement below which describes the amount you charge.

☐1) I charge parents receiving subsidy **less** than I charge other parents.

☐2) I charge parents receiving subsidy **more** than I charge other parents.

### 4. Administration of Medication

NYS Law restricts the right to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to specific medical professionals who are authorized by NYS to administer medication. Some individuals are exempt from this requirement based on their relationship to the child, family, or household and are permitted to administer medications, including:

- The child's parent/caretaker, step-parent, legal custodian, legal guardian, or member of the child's household,
- A child care provider employed by the parent/caretaker to provide child care in the child's home,
- Family members who are related within the 3rd degree of consanguinity to the child's parent or step parent. This includes the child's grandparent, great-grandparent, great-great grandparent, aunt/uncle (and spouse), great aunt/uncle (and spouse), first cousin (and spouse), and brother /sister.
- Child care providers who are trained and authorized by the Office of Children and Family Services (OCFS) under the Health Care Plan for Administration of Medication, approved by a qualified health care consultant, and who are:
  - Operating in compliance with the NYS regulation which includes receiving training on medication administration,
  - Authorized by the child's parent/caretaker, step parent, legal guardian, or legal custodian to administer medication, and
  - Administering medication to subsidized children in care.

To receive OCFS authorization to administer medication, a child care provider must be at least 18 years of age and literate in the language in which the parental permissions and health care provider's instructions will be given. Any person who is NOT AUTHORIZED by NYS Law or NOT EXEMPT from this legal requirement, may ONLY administer over-the-counter topical ointments, sunscreen and topical insect repellent. Examples of medication they MAY NOT ADMINISTER include, but are not limited to: Tylenol, Ritalin, insulin, antibiotics, and ear, eye, or nose drops.

A) Are you, your employees or volunteers LEGALLY PERMITTED to administer medication to child(ren) in subsidized care?
*Check ☑ all statements that apply to you. Provide all other information as it applies.*

☐ 1) **Yes**. I am RELATED within the 3rd degree by blood or marriage to the child(ren)'s parent or step-parent. Therefore, I am allowed to administer medication to the child(ren) following the health care provider's instructions and when I have appropriate permission from the parent.

☐ I am grandparent of: _____

☐ I am great-grandparent of: _____

☐ I am great-great-grandparent of: _____

☐ I am aunt/uncle of (includes spouse) of: _____

☐ I am great aunt/great uncle (includes spouse) of: _____

☐ I am first cousin (includes spouse) of: _____

☐ I am brother/sister of: _____

☐ 2) **Yes.** I am PROVIDING CARE IN THE HOME of the following child(ren): _____ _____. Therefore, I am PERMITTED to administer medication to these children when I have appropriate permission from the parent and I am following the health care provider's instructions.

☐ 3) **Yes.** I am a NYS medical professional AUTHORIZED BY NYS DEPARTMENT OF EDUCATION (NYSED) to administer medication. Therefore, I am allowed to administer medication to child(ren) in my care when there are appropriate permissions from the parent and when following the health care provider's instructions.

a) My profession is *(check ☑ one)*:
- ☐ Registered Nurse
- ☐ Nurse Practitioner
- ☐ Physician
- ☐ Physician Assistant

b) License number: _____
- ☐ I have attached a copy of my current NYS professional medical license. (*Required*).

☐ 4) **Yes**. I HAVE a Health Care Plan for the Administration of Medication (OCFS-LDSS-7000) approved within the past 2 years. Therefore, the qualified medications administrant named below is AUTHORIZED BY OCFS to administer medication to subsidized children in my care according to the health care provider's instructions and when there are appropriate permissions from the parent.

a) Plan approval date: _____
- ☐ I have attached a copy of the **first page AND the approval page** of my Health Care Plan for the Administration of Medication (OCFS-LDSS-7000).

b) Name of the qualified Medications Administrant: _____.

c) Health Care Consultant (HCC) name: _____.

d) Health Care Consultant Profession *(check ☑ one)*:
- ☐ Registered Nurse
- ☐ Nurse Practitioner
- ☐ Physician
- ☐ Physician Assistant

e) License Number: _____.

☐ 5) **No.** None of the above permissions apply to me. I am not authorized by OCFS or NYSED. I understand I **cannot administer** medication to the child(ren) in care, except: *Over-the-counter topical ointments, sunscreen, and topically applied insect repellent.*

B) Are you interested in seeking authorization to administer medication to child(ren) in subsidized care?

☐ **Yes**. I want to learn how to start the process. Please send me the OCFS-LDSS-7007, Obtaining Authorization to Administer Medication to Children in Legally-Exempt Care.

☐ **No**. I will not be seeking authorization to administer medication at this time.

C) I agree I will administer medication in compliance with NYS Law and only to the extent that I am permitted by NYS Law which I have indicated by my choice on this page above.
☐ **Yes.** ☐ **No.**

D) If I have employees or volunteers, I will make sure that each of my employees and volunteers administers medication in compliance with NYS Law and only to the extent permitted by NYS Law.
☐ **Yes.** ☐ **No.**

### 5. Hours of Operation

What hours do you generally provide care? *Check ☑ all that apply.*

☐ Mornings ☐ Afternoons ☐ Evenings ☐ Overnight ☐ *Back-Up Only*
☐ Before School ☐ After School
☐ Weekends ☐ Saturday ☐ Sunday
☐ Weekdays ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday

## E. Verification of Legally Exempt Status

### 1. Child Care Schedules

A) For each **subsidized child** you provide child care for or plan to provide care for, provide ALL the requested information.

B) For each **non-subsidized child** provide the same information, *except DO NOT provide the Child's LAST name.*

| CHILD INFORMATION AND CHILD CARE SCHEDULES | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Child Name: | | | Child Name: | | | Child Name: | | |
| | Child Age: | | | Child Age: | | | Child Age: | | |
| | Parent Name: | | | Parent Name: | | | Parent Name: | | |
| | Provider's Relationship To The Child: | | | Provider's Relationship To The Child: | | | Provider's Relationship To The Child: | | |
| | Subsidy Case? ☐Yes ☐No | | | Subsidy Case? ☐Yes ☐No | | | Subsidy Case? ☐Yes ☐No | | |
| | Schedule of Child Care | | | Schedule of Child Care | | | Schedule of Child Care | | |
| | Drop Off | Pick Up | Hrs / Day | Drop Off | Pick Up | Hrs / Day | Drop Off | Pick Up | Hrs / Day |
| Monday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Tuesday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Wednesday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Thursday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Friday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Saturday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Sunday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| | Total Hours per Week | | | Total Hours per Week | | | Total Hours/ per week | | |

| CHILD INFORMATION AND CHILD CARE SCHEDULES | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Child Name: | | | Child Name: | | | Child Name: | | |
| | Child Age: | | | Child Age: | | | Child Age: | | |
| | Parent Name: | | | Parent Name: | | | Parent Name: | | |
| | Provider's Relationship To The Child: | | | Provider's Relationship To The Child: | | | Provider's Relationship To The Child: | | |
| | Subsidy Case? ☐Yes ☐No | | | Subsidy Case? ☐Yes ☐No | | | Subsidy Case? ☐Yes ☐No | | |
| | Schedule of Child Care | | | Schedule of Child Care | | | Schedule of Child Care | | |
| | Drop Off | Pick Up | Hrs / Day | Drop Off | Pick Up | Hrs / Day | Drop Off | Pick Up | Hrs / Day |
| Monday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Tuesday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Wednesday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Thursday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Friday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Saturday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| Sunday | AM PM | AM PM | | AM PM | AM PM | | AM PM | AM PM | |
| | Total Hours per Week | | | Total Hours per Week | | | Total Hours/ per week | | |

### 2. CHILD(REN) IN THE PROVIDER'S CARE

A) How many of **your own** child(ren) do you care for at this child care location during child care hours? *Give numbers below. Do not leave spaces blank. Write "zero," if applicable.*

1) Age newborn through 4 years: _____.

2) Age 5 through 12 years old: _____.

B) Are you caring for any children, *other than your own*, who are **NOT** receiving child care subsidy funds?

1) ☐ **Yes.** *If yes, indicate the number of non-subsidized children, other than your own, below.*

a) Number of relative non-subsidized children:_____.

b) Number of non-relative non-subsidized children: _____.

*Note: All non-subsidized children in care MUST be listed on the preceding schedule page.*

2) ☐ **No.**

C) Have you started providing child care for all of the children whose schedules you listed above?

1) ☐ **Yes.**

2) ☐ **No**. If No, when care will begin? _____

*NOTE: Any changes in the number of children you care for, the hours you provide care and the location where you provide care may affect your eligibility as a legally-exempt child care provider and/or require that you become licensed or registered to operate a day care program. Such changes must be reported to the enrollment agency immediately.*

## F. HEALTH AND SAFETY CHECKLIST

*The provider and parent/caretaker inspect the child care location and complete this section together.*

I meet and agree to continue to meet the basic health and safety requirements listed below.
*Check ☑ an answer for each item below.*

| YES | NO | The provider meets the following basic health and safety requirements before caring for children: |
|---|---|---|
| ☐ | ☐ | 1. The provider and all children have two separate & remote ways to leave the building in an emergency. |
| ☐ | ☐ | 2. The rooms for children at my child care location are well-heated, well-lighted and well-ventilated. |
| ☐ | ☐ | 3. My child care location is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around the areas that keep the child(ren) from getting to them. |
| ☐ | ☐ | 4. If child care is provided above the first floor, there are barriers or locks on the windows so the child(ren) cannot fall out. |
| ☐ | ☐ | 5. The water supply at my child care location is safe. I have working toilets. There is hot and cold running water all the time. |
| ☐ | ☐ | 6. I, all employees, and volunteers who are likely to have regular contact with the child(ren) are physically, emotionally and mentally able to provide child care. |
| ☐ | ☐ | 7. I, all employees, and volunteers who are likely to have regular contact with the child(ren) are free from any communicable diseases that pose a risk to the health and safety of the child(ren) in care.<br>If I, any employee, or volunteer who is likely to have regular contact with the child(ren) has a communicable disease, I must have a statement from such person's health care provider that indicates that the presence of a communicable disease does not pose a risk to the health and safety of the child(ren) in care.<br>☐ I have ATTACHED a doctor's statement, if I, any employee or volunteer who is likely to have regular contact with the child(ren) has a communicable disease and that such disease does not pose a risk to the health and safety of the child(ren) in care. |

| | | |
|---|---|---|
| ☐ | ☐ | 8. My child care location is free of any dangerous or unsafe conditions that could hurt a child(ren). This includes but is not limited to:<br>• Knives and other sharp objects are out of the reach of child(ren).<br>• Small rugs, runners, and electrical cords are held in place so a child won't trip.<br>• Electrical cords do not run under furniture or rugs and are out of the reach of small children.<br>• Extension cords are not overloaded.<br>• Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place. Ammunition is locked separately.<br>• Cords to window blinds and shades are out of the reach of child(ren).<br>• Hot liquids are out of the reach of children.<br>• Small items that the child(ren) could choke on are out of the child(ren)'s reach.<br>• Carbon monoxide detectors are installed where the child(ren) that I provide care for sleep or nap and on each story of the home where care is provided where a carbon monoxide source is located. |
| ☐ | ☐ | 9. All matches, lighters, medicines, drugs, cleaning materials, detergents, aerosol cans, and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with child(ren), where food is prepared, or otherwise may be a danger to the child(ren). I store all of these materials safely away from the child(ren). |
| ☐ | ☐ | 10. I will give each child(ren) meals and snacks according to what the parent/caretaker and I have agreed. |
| ☐ | ☐ | 11. I will refrigerate milk, formula and any other food that goes bad if not refrigerated. |
| ☐ | ☐ | 12. I agree not to heat formula, breast milk and other food items for infants in a microwave oven. |
| ☐ | ☐ | 13. I will always allow the custodial parent/caretaker or caretaker to have unlimited access to his/her child(ren) in care, to the program site while the child(ren) is in care, and to any written records concerning the child(ren). |
| ☐ | ☐ | 14. I will hold fire/evacuation drills monthly with child(ren) during hours that the child(ren) are in care so that the child(ren) and I will know what to do in the case of an emergency. |
| ☐ | ☐ | 15. I have a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local or State police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |
| ☐ | ☐ | 16. I will use protective caps, covers or permanently installed safety devices on all electrical outlets that a child(ren) could reach when I am caring for a child(ren) under 5 years old. |
| ☐ | ☐ | 17. Paint and plaster are in good repair so that there is no danger of a child(ren) putting paint or plaster chips in their mouths or of it getting into food. |
| ☐ | ☐ | 18. I have at least one operating smoke detector on each floor of my child care location. I will check regularly to make sure all detectors work. |
| ☐ | ☐ | 19. I have a portable first aid kit at my child care location that is easy to get to in an emergency and my first aid supplies are kept in a clean container or cabinet away from child(ren). It is stocked to treat common childhood injuries and problems. I will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used. |
| ☐ | ☐ | 20. I have RECEIVED from the child(ren)'s parent/caretaker:<br>• Signed proof from a doctor or other health care provider that: the child(ren) has received all of the immunizations appropriate for the child(ren)'s age; **OR**<br>• Proof that one or more of the immunizations would harm the child(ren)'s health; **OR**<br>• A statement saying that the child(ren) has not been immunized due to the parent/caretaker's religious beliefs. |
| ☐ | ☐ | 21. The stairs, railings, porches and balconies are in good repair. |

Only **Family Child Care** providers must answer question *number 22* below.

| YES | NO | **The provider meets the following basic health and safety requirements before caring for the child(ren):** |
|---|---|---|
| ☐ | ☐ | 22. All persons living in the home where care is given are free of any communicable diseases. If any person living in the home does have a communicable disease, I must have a statement from the person's health care provider that indicates that the presence of a communicable disease does not pose a risk to the health and safety of the child(ren) in care.<br>☐ I have attached a doctor's statement, if any person living in home has a communicable disease and that such disease does not pose a risk to the health and safety of the child(ren) in care. |

## G. PROVIDER BEHAVIORAL CONDITIONS

All child care providers must answer the questions below.

| YES | NO | The provider meets and agrees to continue to meet the following basic health and safety requirements before caring for the child(ren): |
|---|---|---|
| ☐ | ☐ | 1. I understand and agree that I will never use physical punishment or let others use physical punishment while child(ren) are in my care. Physical punishment means doing things directly to a child(ren)'s body to punish child, such as:<br>• Spanking, biting, slapping, shaking, twisting, or squeezing;<br>• Making the child(ren) do physical exercises beyond what is normal;<br>• Forcing the child(ren) to stay still for long periods of time;<br>• Making the child(ren) stay in positions that hurt the child or are bizarre;<br>• Bathing the child(ren) in unusually hot or cold water; and<br>• Forcing child(ren) to eat or have in child(ren)'s mouth soap, foods, hot spices or foreign substances. |
| ☐ | ☐ | 2. I understand and agree that I will never use or be under the influence of alcohol or drugs while children are in care and will make sure that child(ren) being cared for do not have contact with people using drugs or alcohol. |
| ☐ | ☐ | 3. I understand and agree that I will not smoke or allow smoking in indoor areas or other enclosed areas, such as cars or other vehicles, when child(ren) are present. |
| ☐ | ☐ | 4. I understand and agree that I will never leave child(ren) alone or unsupervised. |
| ☐ | ☐ | 5. I understand and agree that I will ALWAYS be present when the child(ren) are in the care of employees, volunteers and if care is provided in a home other than the child's home, household members. |

## H. RELEVANT HISTORY-PEOPLE AT THE CHILD CARE LOCATION

### 1. PROVIDER ONLY

#### A) PROVIDER TERMINATION OF PARENTAL RIGHTS

I certify and attest that *(check ☑* one):

1) ☐ I have **never had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.

2) ☐ I **have had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.
   ☐ I have **ATTACHED** the OCFS-LDSS-4917, History of Termination of Parental Rights and/or Court Ordered Article 10-Removal of a Child and Parental Acknowledgement form[4] .

#### B) PROVIDER COURT ORDERED ARTICLE 10 REMOVAL

I certify and attest that *(check ☑*: one):

1) ☐ I have **never had** a child(ren) removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.
2) ☐ I **have had** a child(ren) removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.
   ☐ I have **ATTACHED** the OCFS-LDSS-4917, History of Termination of Parental Rights and/or Court Ordered Article 10-Removal of a Child and Parental Acknowledgement form [4].

#### C) PROVIDER DAY CARE ENFORCEMENT

Note: A child "day care" program includes licensed or registered day care centers, family day care homes, group family day care homes, small day care centers and/or school age child care programs.

1) I certify and attest that *(check ☑*: one):
   ☐ I **have had** an application for a license or registration to operate a child day care program denied.
   ☐ I **have not had** an application for a license or registration to operate a child day care program denied.
2) I certify and attest that (*check ☑: one*):
   ☐ I **have** had a license or registration to operate a child day care program revoked or suspended.
   ☐ I **have not** had a license or registration to operate a child day care program revoked or suspended.
3) If you have **been denied** a license or registration to operate a child day care program, **or** if you have had a license or registration to operate a child day care program **revoked or suspended,** complete the following:
   a) **Program Name and Location:**_____

_____

[4] If you need a copy of this form, please contact your local social services district or your legally-exempt caregiver enrollment agency.

b) ☐ I have **ATTACHED** the OCFS-LDSS-4916, History of Day Care Enforcement and Parental Acknowledgement[4] .

### 2. Provider, Employees, Volunteers, and Household Members

**A) Criminal History**

1) I have listed on subsection I. C of this form: ALL employees, volunteers, and if I provide care in a home other than the child's home, all of the household members, 18 years of age or older who are likely to have regular contact with the child(ren) in care.
   ☐ **Yes.**
   ☐ **No.**
2) If I provide care in a home other than the child(ren)'s home, I also have listed all household members on subsection I. C of this form.
3) I certify that I have asked the following people if they **have been convicted of a crime:**
   - Each person living in the home (other than the child(ren)'s own home) who is age 18 or over,
   - Each volunteer who is likely to have regular contact with child(ren) in care, and
   - Each employee.

   ☐ **Yes.**
   ☐ **No.**
4) Have you, your employee, or your volunteer ever **been convicted of a crime** in New York State or any other place?
   ☐ **Yes**. Give name(s) of person(s) convicted _____.
   ☐ I have **ATTACHED** a completed OCFS-LDSS-4915, History of Criminal Convictions and Parental Acknowledgement for each person with a criminal history.
   ☐ **No.**
5) For provider type of Family Child Care only: has any person living in the home where care is given and who is 18 years of age or older been convicted of a crime in New York State or any other place?
   ☐ **Yes**. Give name(s) of person(s) convicted: _____.
   ☐ I have **ATTACHED** a completed OCFS-LDSS-4915, History of Criminal Convictions and Parental Acknowledgement for each household member with a criminal history.
   ☐ **No**.

**B) Indicated Reports Of Child Abuse and Maltreatment**

I have asked ALL employees, volunteers, and individuals who may be helping to care for or who have regular contact with the child(ren), and, if I provide care in a home other than the child(ren)'s home, all household members 18 years of age or older, if they have been the subject of an indicated report of child abuse or maltreatment. I have informed the parent/caretaker whether I or any of these individuals have been the subject of any indicated reports of child abuse or maltreatment. When an indication of child abuse or maltreatment exists, I have given the parent/caretaker, in writing, true and accurate information, including:

- a description of the incident(s), and
- the date of the indication(s), and
- any other relevant information regarding the indication(s).

☐ **Yes.**

☐ **No.**

## I. Provider Agreements and Certifications

### 1. Submitting Updates and Changes of Enrollment Information

- I will immediately submit a new enrollment form to the enrollment agency if I start providing child care at a child care location different from the one given on this form.
- I will inform the enrollment agency immediately if there are changes in:
  - my contact information,
  - the child(ren) I care for, or, the hours that I provide care,
  - the people who have contact with the child(ren) in my care,
  - any information provided on the enrollment form or changes to the attachments.
- I will inform the enrollment agency immediately when:
  - Any person 18 years or older moves into the household where "Family Child Care" is provided or stays there for more than a few days (**Family** Child Care only).

- Any child(ren) living in the household where "Family Child Care" is provided, turns 18. (**Family** Child Care only)
- I hire or receive help caring for the child(ren).

## 2. Health and Safety Requirements

- I understand that I cannot be enrolled and payment cannot be made until all items marked "No" on the Health and Safety Checklist and Provider Behavioral Conditions Checklist have been corrected.
- I will continue to meet all the basic health and safety requirements listed on the checklists and
  - The parent/caretaker and I have inspected the home and completed the Health and Safety Checklist and Provider Behavioral Conditions Checklists together.
  - I will notify and provide documentation to the enrollment agency when any item on the checklists has been corrected or changed.

## 3. Information Sharing and Database Checks

- I authorize the enrollment agency and the Child and Adult Care Food Program (CACFP) to exchange information regarding my child care enrollment status and my participation in the CACFP.
- I understand the enrollment agency and the local social services district will exchange information regarding my child care enrollment status.
- I understand that the local social services district will check its child welfare database for my history of any court ordered removal of a child under Family Court Act (FCA) Article 10 and any termination of parental rights.
- I understand that the enrollment agency will check the New York State Sex Offender Registry to determine if I, any volunteer who is likely to have regular contact with child(ren) in care, any employee, and for the legally-exempt **family** child care provider, any person living in the home where child care is provided, age 18 years or older is listed on the Sex Offender Registry.
- I understand that the enrollment agency will check the New York State Child Care Facility System to determine whether I have ever been denied a child day care license or registration or had a child day care license or registration suspended or revoked.

## 4. Eligibility and Payment

- I understand I cannot be paid as a legally-exempt child care provider if I am the child(ren)'s parent, stepparent, adoptive parent, legal guardian or other person legally responsible for that child(ren), or, if I live in the same household and have a child(ren) in common with the parent.
- I agree to collect the family share (fee) if instructed to do so by the local social services district. I will immediately notify the local social services district if the parent/caretaker fails to pay the required family share.
- I agree to provide accurate attendance records in a timely manner, as required by the local social services district.
- I understand that I will not be paid by the local social services district for any child care that I provide to a child(ren) receiving a child care subsidy while I am deemed an ineligible provider by the enrollment agency.
- I understand that I must be enrolled with the enrollment agency before any payment may be made.
- I understand that <u>I may not be</u> eligible to provide child care AND that the local social services district may not be able to pay me when:
  - I have a history of Article 10 (child protective) removal of a child by family court order, or
  - I have a history of termination of parental rights, or
  - I have a history of denial, revocation and/or suspension of a license or registration to operate a child day care program or
  - I, any volunteer who is likely to have regular contact with the child(ren), any employee, or, for family child care, any person age 18 years or older living in the home has been convicted of a crime.
- I understand I <u>am not eligible</u> to provide child care if I, any volunteer who is likely to have regular contact with the child(ren), any employee, or person living in the home (other than the child(ren)'s home) age 18 years or older has been convicted of a crime against a child or is listed on the Sex Offender Registry.
- I understand that if the enrollment agency determines I cannot be enrolled, then the local social services district cannot issue payment for care that I have provided. The parent/caretaker has the right and responsibility to decide whether he/she wants to use my child care services. If the parent/caretaker chooses to use my child care services when I cannot be enrolled, the parent/caretaker is responsible to pay me for the child care.

## 5. Other Agreements

- I understand and agree to allow representatives of the enrollment agency, the local social services district and the State of New York access to the premises where subsidized child care is provided to confirm that information on my enrollment form and/or on attendance forms is true and accurate and that child care services are being provided as listed on these forms. I understand that if I do not allow such access, then I will be considered an ineligible provider, my enrollment will be terminated and I will not be paid by the local social services district.
- I understand that if I am denied enrollment I may request that the enrollment agency review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I must provide all documents or references required by the enrollment agency.
- I understand and agree to meet all of the conditions stated on this form for as long as I am providing child care. I understand that I am required to inform the enrollment agency and the parent/caretaker if there is a change in the information stated on the enrollment form.

## 6. Provider Certification

By signing this form I certify to the best of my knowledge that:

- I understand and agree to continue to meet all of the conditions stated above.
- I have reviewed the “Parent Information Section” of this form.
- I understand the decision to enroll me is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If I provide child care services while enrolled under false pretenses, or while I am an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, take legal action against me or the parent/caretaker and I may be required to repay any money I receive for such services.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| X | |

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT FAMILY CHILD CARE AND LEGALLY-EXEMPT IN-HOME CHILD CARE

## II. PARENT INFORMATION SECTION

*The parent/caretaker receiving or applying for child care subsidy must complete this section AND review the "Child Care Provider" Section.*

### A. PARENT/CARETAKER[5] INFORMATION

1. **Parent/Caretaker's Name**:

   ☐ Mr. ☐ Mrs. ☐ Ms.

   Last First MI Suffix

   Other names known by:
   Maiden, married, aliases, etc.

2. **Identifying and Contact Information**:

   Date of Birth: / / (mm/dd/yyyy) Home Phone: ( ) ☐ Listed ☐ Unlisted

   Work Phone: ( ) Cell Phone:( )

   E-Mail Address[6]: ☐ No E-Mail Address

3. Do you read English? ☐ **Yes.** ☐ **No.** If No, what languages do you read best? _____.

4. Do you speak English? ☐ **Yes.** ☐ **No.** If No, what languages do you speak best? _____.

5. Is the child care provided in your home? ☐ **Yes.** ☐ **No.**

6. Give your home address below

   **Home Address**:

   House Number Street Apt.

   Address Line 2 Floor

   City State Zip County/Borough

7. **Mailing Address**: Is your mailing address the same as your home address? ☐ **Yes.** ☐ **No.** *If your mailing address is different from your home address please give your mailing address below.*

   House Number Street Apt.

   Address Line 2 Floor

   City State Zip

8. Provide information about your Child Care Subsidy case:

   Subsidy Paying County: Temporary Assistance No.[7]:

   Subsidy Case Number[7]: Parent's CIN Number[7]:

---

[5] Caretaker means the child's parent, legal guardian, caretaker relative or any other person with whom a child lives who has assumed responsibility for the day-to–day care and custody of the child.
[6] The e-mail address if given may be used by the enrollment agency to contact you.
[7] The temporary assistance number, subsidy case number and parent's CIN (client identification number) are optional. If provided, they will be used to facilitate information sharing with the local social services district regarding your eligibility and payment for child care.

## B. YOUR CHILD(REN) IN THE PROVIDER'S CARE

### 1. LIST YOUR CHILD(REN) THAT THE PROVIDER CARES FOR

*Add additional sheets if necessary.*

A) Child's Name: _____ Date of Birth: / /
Last First (mm/dd/yyyy)

Provider's Relationship to Child: _____ Child's CIN[8]: _____

B) Child's Name: _____ Date of Birth: / /
Last First (mm/dd/yyyy)

Provider's Relationship to Child: _____ Child's CIN: _____

C) Child's Name: _____ Date of Birth: / /
Last First (mm/dd/yyyy)

Provider's Relationship to Child: _____ Child's CIN: _____

D) Child's Name: _____ Date of Birth: / /
Last First (mm/dd/yyyy)

Provider's Relationship to Child: _____ Child's CIN: _____

### 2. MY CHILD(REN)'S MEDICATION NEEDS

I understand that child care providers **cannot** administer medication to the child(ren) except as follows:

- o Any child care provider may administer only over-the-counter topical ointments, insect repellent, and sunscreen with the parent's permission.
- o When the child care provider provides care in the child(ren)'s home, the provider may administer over-the-counter medicine and prescription medication with the permission of the parent and following physician's instructions.
- o When the child care provider is related to the child(ren)'s parent or stepparent within the 3rd degree of consanguinity (blood or marriage), the provider may administer over-the-counter medicine and prescription medication with the permission of the parent and following physician's instructions. The child care provider must have one of the following relationships to be considered a relative within the 3rd degree.
  - o the child's grandparent,
  - o the child's great-grandparent,
  - o the child's great-great-grandparent,
  - o the child's aunt/uncle (and spouse),
  - o the child's great aunt/great uncle (and spouse),
  - o the child's brother/sister
  - o the child's first cousin (and spouse),
- o When the child care provider is a licensed physician, physician's assistant, registered nurse, or nurse practitioner, the provider can administer prescription and over-the-counter medication to subsidized child(ren) with the parent's permission parent and following physician's instructions.
- o When the child care program is authorized by OCFS and following a Health Care Plan for the Administration of Medication, the medications administrant designated in the Health Care Plan for the Administration of Medication may administer over-the-counter medication and some prescription medication to subsidized child(ren) with the permission of the parent and following physician's instructions.

[8] Client Identification Number (CIN) is optional, if given, it will be used to facilitate information sharing with the local social services district regarding your eligibility and payment for child care.

I have read the "Provider's Qualifications to Administer Medication" in Provider Section I, and "My Child(ren)'s Medication Needs", above, and I understand the extent to which my child care provider is legally permitted to administer medication to my child(ren). My child care provider and I have agreed that:

☐ The parent will be responsible for the medication needs of the following child(ren):

_____.

☐ The provider will be responsible for the medication needs of the following child(ren):

_____.

### 3. My Child(ren)'s Meals and Snacks

For each child(ren) listed on the preceding page, either the parent or the provider must provide meals and snacks. Who will provide meals and snacks for your child(ren) while in care?

☐ The parent will be responsible for the meals and snacks for the following child(ren):

_____.

☐ The provider will be responsible for the meals and snacks for the following child(ren):

_____.

## C. Relevant History of Provider and People At the Child Care Location

1. I understand the child care provider must tell me whether the following people, who may be in contact with my child(ren), have been the subject of an indicated report of child abuse or maltreatment:
   - the provider,
   - volunteers who are likely to have regular contact with child(ren) in care,
   - employees, and
   - if care is not provided in my home, persons living in the home age 18 years or older.

   ☐ **Yes.**
   ☐ **No.**

- I have specifically asked the provider if the provider, volunteers who are likely to have regular contact with child(ren) in care, employees, and if care is provided in the provider's home, persons living in the home age 18 years or over, have been the subject of an indicated report of child abuse or maltreatment.
- The provider has informed me whether any indicated reports of child abuse or maltreatment exist, who was the subject of the report: the provider, employees, volunteers who are likely to have regular contact with child(ren) in care, and, if care is provided in the provider's home, persons living in the home age 18 years or over.
- When an indication of child abuse or maltreatment exists, the provider has given me written information regarding such indication of child abuse or maltreatment. I understand I have the right to select another provider. I agree that I have carefully considered the information on child abuse and maltreatment indications that I have been given and I am selecting this provider.

  ☐ **Yes.**
  ☐ **No.**

## D. Parental Acknowledgements and Agreements

### 1. Parent Responsibilities to Monitor Quality of Care

- I certify that I have selected this provider to care for my child(ren).
- I have reviewed each item on the Health and Safety Checklist and the Provider Behavioral Conditions Checklist with the provider, located in the Child Care Provider Section, and all information on the checklist is true and accurate.
- I understand it is my responsibility to monitor the quality of care my child(ren) receives from the child care provider.
- I understand that these agreements apply for as long as this provider is caring for my child(ren).

### 2. Changes to Enrollment Information

- I will notify the enrollment agency immediately if:
  - My address or phone number changes
  - I have any concerns about the health and safety of my child(ren) in the provider's care.

### 3. Eligibility and Payment Issues

- I will immediately notify the local social services district and my provider if the hours that I need child care or other circumstances related to my need or eligibility for child care change.
- I agree to pay my family share (fee), if any, as directed by the local social services district.
- I understand a child care provider who is the child(ren)'s parent, stepparent, adoptive parent, legal guardian or other person legally responsible for that child(ren) or who lives in my same household and has a child(ren) in common with me cannot be paid.
- I understand that the provider must be accepted for enrollment with the enrollment agency before any payment can be made.
- I understand a provider is not eligible to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren), any employee, or, for family child care, any person 18 years or older who is living in the home where child care is provided:
  - Has been convicted of a crime against a child(ren) or
  - Is listed on the Sex Offender Registry.
- I understand that my provider may not be eligible to provide child care and that the local social services district may not be able to pay the provider when:
  - The provider has a history of termination of parental rights, or
  - The provider has a history of Article 10 (child protective) removal of a child(ren) by family court order, or
  - The provider had a license or registration to operate a child day care program denied, revoked and/or suspended, or
  - The provider, any volunteer who is likely to have regular contact with my child(ren), any employee, or, for family child care, any person 18 years or older who is living in the home where child care is provided, has been convicted of a crime.
- I understand that if the provider is denied enrollment or has his or her enrollment terminated, the provider will be considered ineligible to provide child care.
- The local social services district cannot pay the provider or issue payment for care given by a provider who cannot be enrolled or who is ineligible. If I choose to use an ineligible provider, I am responsible to pay for the child care myself. I understand I have the right to select another provider.

### 4. Health and Safety Requirements

- I understand that payment cannot be made until all items marked "No" on the Health and Safety Checklist and Provider Behavioral Conditions Checklist have been corrected.
- I understand that the provider must continue to meet all the basic health and safety requirements and behavioral conditions listed on the checklists.
  - The provider and I have inspected the home, completed the Health and Safety Checklist and the Provider Behavioral Conditions Checklists together.
  - All statements on the checklists are true and accurate.
  - The provider and I will notify and provide documentation to the enrollment agency when any item on the checklists has been corrected or changed.

### 5. Parent Certification

By signing this form I certify to the best of my knowledge that:

- I have reviewed the "Child Care Provider Section" of this form.
- I understand and agree to continue to meet all conditions stated above.
- I understand the decision to enroll my provider is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my provider's eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If my provider provides child care services while enrolled under false pretenses, or while he or she is an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, take legal action against me or the child care provider.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PARENT/CARETAKER SIGNATURE | DATE |
|---|---|
| | |

***This enrollment form is a legal agreement. Make a copy of this form for your records. Return this form and its attachments to:***

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# ENROLLMENT FORM FOR PROVIDER OF LEGALLY-EXEMPT GROUP CHILD CARE

Child Care providers who are not required by NYS law to be licensed or registered to operate a day care program use this form to enroll with a legally-exempt caregiver enrollment agency to provide subsidized child care.

**Instructions:** *Please use black/blue pen.*

- *Provider/director: Complete the "Child Care Provider Section" of this form.*
- *Parent/caretaker: Complete the "Parent Information Section" of this form.*
- *The provider/director and parent/caretaker walk through and inspect the site, review both sections of the form, then sign and date where indicated.*
- *Submit the completed form to the enrollment agency serving the location where the child care is being provided.*

## I. CHILD CARE PROVIDER SECTION

### A. CHILD CARE PROVIDER/DIRECTOR AND PROGRAM

**1. Child Care Provider/Director Name:**

☐ Mr. ☐ Mrs. ☐ Ms. _____
Last First MI Suffix

Other names known by: _____
Maiden, married, aliases, etc

**2. Program Name and Federal Identification Number *(Complete only if applicable):***

DBA (Doing Business As): _____ Federal Identification No: _____

Legal Name: _____

**3. Identifying and Contact Information:**

**Enrollment Number:** _____ (If Applicable) Site Phone: ( ) _____ ☐ Listed ☐ Unlisted

Date of Birth: / / (mm/dd/yyyy) Home Phone: ( ) _____ ☐ Listed ☐ Unlisted

Gender (M or F): _____ Cell Phone: ( ) _____ Fax: ( ) _____

Social Security No.[1]: _____ E-Mail Address[2]: _____ ☐ No E-Mail Address

**4. Child Care Location:** Give address where the child care is being provided.

_____
Building Number Street Apt.

_____
Address Line 2 Floor

_____
City State Zip County

| **(For Enrollment Agency Use)** | **(For Local District Use)** ☐WMS |
|---|---|
| Received Date _____ | Parent's Case No._____ Type: ☐Local |
| Complete Date | LSSD Office/Unit/Wkr. No. / / |

[1] The social security number or federal identification number is **required when the local social services district issues child care subsidy payments** directly to a child care provider/director. Failure to provide the social security or federal identification number may delay payment. Social security number or federal identification of the provider/director is **optional** when the local social services district issues child care subsidy checks to subsidy recipient (parent/caretaker). If the social security number or federal identification is provided, it may also be used by federal, State & local agencies for federal reporting, to prevent duplication of services and to prevent fraud.

[2] The e-mail address, if given, may be used by the enrollment agency to contact you.

**5. Mailing Address:** Is your mailing address the same as the child care location address given above?

☐ **Yes.**

☐ **No.** If **No**, give address below.

Building Number Street Apt.

Address Line 2 Floor

City State Zip

**6.** Were you previously enrolled as a legally-exempt provider?

☐ **Yes.** Year enrolled: _____. County where you resided: _____.

☐ **No.**

**7.** List below the Counties/Districts issuing subsidy payments for child care you provide.

Parent Name: _____

District: _____ Local ID/Vendor Number,[3] if any: _____

Parent Name: _____

District: _____ Local ID/Vendor Number, if any: _____

Parent Name: _____

District: _____ Local ID/Vendor Number, if any: _____

**8.** Do you read English? ☐ **Yes** ☐ **No.** If **No**, what language do you read best? _____.

**9.** Do you speak English? ☐ **Yes** ☐ **No.** If **No**, what language do you speak best? _____.

**10.** Does any other program provide child care at the SAME location you intend to provide child care?

☐ **Yes. Describe:** _____

☐ **No.**

## B. Type of Legally-Exempt Child Care That You Provide

*Indicate if your program is operated under the authority of another federal, State, or local government, or tribal agency in question 1 below, then indicate the type of care you provide in one of the following questions. Your answer to question 1 will determine whether you answer question 2 or question 3 within this subsection B.*

1. Are you legally operating under the auspices of another federal, State, or local government or a tribal agency?

☐ **Yes.** I am legally **operating under the auspices** of another federal, State, or local government, or a tribal agency and my program is described in question B.2.

*Since you are operating under the auspices of another federal, State, tribal or government agency you will answer question B.2 and then are required to complete only the sections and questions listed immediately below.*

- *Provider Subsection A: All.*
- *Provider Subsection B: Questions 1 and 2.*
- *Provider Subsection C: Questions 2 and 3.*
- *Provider Subsections F, G and H: All.*
- *Parent Sections: ALL sections and questions.*

☐ **No.** I am not operating under the auspices of another federal, State, or local government or a tribal agency AND I am not legally required to do such.

*Since you are NOT required to operate under the auspices of another federal, State, tribal or government agency, please skip question B.2, but answer question B.3. You must then complete ALL remaining subsections and questions:*

- *Provider Subsection A: All.*
- *Provider Subsection B: Questions 1 and 3.*
- *Provider Subsection C, D, E, F, G and H: All.*
- *Parent Sections: All.*

[3] Provider Vendor Number is an optional identifying number assigned and used by the local social services district to track the provider.

2. PROGRAMS OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY:

Choose the statement which describes the **government agency you operate under** and your legally-exempt child care program. *Check ☑ A, B, C, D, E, or F and answer related questions for that program.*

☐ A) The program is operated in compliance with applicable **Federal** laws and regulations and is **located on federal property**.

Name of Federal agency where located: _____

The type of child care provided is: *(check ☑ all that apply)*

☐ day care center
☐ family day care home
☐ other child care program: _____

☐ B) The program is operated in compliance with applicable **Tribal** laws and regulations and is **located on Tribal property**.

Name of Tribe: _____

Name of Tribal Property where located:_____

The type of child care provided is: (*check ☑ all that apply*)

☐ day care center
☐ family day care home
☐ other child care program: _____

☐ C) The program operates under the auspices of the **NYS Department of Education** and

- Is operated by a public school district that is providing elementary or secondary education or both in accordance with the compulsory education requirements of NYS Education Law, **AND**
- The program(s) is (are) located on the same premises or campus where the elementary or secondary education is provided.

Name of school: _____.

Name of school district: _____.

The type of child care provided is: (check ☑ all that apply)

☐ nursery school programs providing services to children three years of age or older, for 3 hours or less per day, per child
☐ pre-kindergarten programs for children three years of age or older
☐ school-age child care programs conducted during non-school hours

☐ D) The program is my privately owned nursery school operating under the auspices of NYS Department of Education in accordance with Part 125 of its regulations,

- is voluntarily registered with the NYS Department of Education, and is
- providing services to children three years of age or older, for 3 hours or less per day, per child **AND**

☐ **I HAVE ATTACHED** a copy of my current certificate of registration which is valid for up to 5 years.

Registration Number: _____. Date of Certificate of Registration: _____.

☐ E) The program, **located within New York City**,

- Has filed appropriate notice with the New York City Department of Education on a form provided or approved by the NYC Department of Education, **AND**
- Is operated by a school recognized under the State Education law and which provides compulsory education for children, **AND**
- Is located within such school and has identical ownership, operation management and control as the school, **AND**
- Is a pre-kindergarten or kindergarten program of instruction for children no younger than 3 years of age through 5 years, **AND**

☐ **I HAVE ATTACHED** a copy of my current Certificate of Filing from the NYC Department of Health **AND** Mental Hygiene (DOHMH).

Certificate of Filing Number: _____ Filing Date:_____.

☐ F) The program is a **summer day camp operating under the jurisdiction of the Department of Health.** The program does NOT concurrently hold a current license or registration to operate a day care program issued by the New York State Office of Children and Family Services or by the New York City DOHMH for this site and program.

1) The summer day camp is operated under the jurisdiction of the: *(choose the appropriate authority)*

☐ New York State Department of Health (NYSDOH) in accordance with subpart 7-2 of the State Sanitary Code **OR**,
☐ New York City Department of Health and Mental Hygiene (NYCDOHMH).

2) Do you have a **current year** permit from the New York State Department of Health or the New York City DOHMH to operate as a legally-exempt summer day camp program?

a) ☐ **Yes.** *You must attach the permit. Check ☑ below to show you have met the requirement.*

☐ **I HAVE ATTACHED** a copy of my current year permit from the NYS DOH or the NYC DOH. Permit number: _____. Expiration date:_____.

b) ☐ **No**. You cannot be *fully enrolled* until you submit the current year summer camp permit from DOH. To be *conditionally enrolled* prior to the issuance of the current year's DOH summer camp permit, you must:

- Attach proof that you have completed the application to DOH for a permit to operate a summer day camp, **AND,**
- Have no outstanding compliance issues with the NYS DOH or NYC DOH, **AND**,
- Agree to immediately notify the enrollment agency if you are *denied* a summer camp permit by the DOH or if you withdraw your request for a summer day camp permit, **AND**,
- Agree to submit your current year's DOH summer day camp permit to the enrollment agency as soon as it is issued so that your enrollment will change from conditional enrollment to full enrollment. Failure to submit the permit in a timely manner will result in a termination of enrollment.

*Check ☑ below to show item attached.*

☐ I have ATTACHED proof of my application for the DOH permit. I submitted the camp permit application to DOH on (date): _____.

3) Provide date that summer day camp opened or is scheduled to open: _____.

3. PROGRAMS NOT OPERATING UNDER THE AUSPICES OF ANOTHER GOVERNMENT AGENCY:

Choose the statement which describes your legally-exempt child care program(s) that *does not operate under the auspices* of a federal, State, or local government, or a tribal agency. *Check ☑* ***one*** *type, A), B) or C) and answer any related questions.*

☐ A) The program(s) is (are) **operated by a private school or academy,** (give n**ame of private school or academy** _____),

- which is providing elementary or secondary education or both, in accordance with the compulsory education requirements of the **NYS Education Law**, **AND**
- The program(s) is (are) located on the same premises or campus where the elementary or secondary education is provided.

The type of child care provided is: *(check ☑ all that apply)*

☐ A nursery school, for children 3 years of age or older, for three or less hours per day per child
☐ A pre-kindergarten, for children 3 years of age or older, for three or less hours per day per child
☐ A program for school-aged children conducted during non-school hours.

☐ B) The program(s) is not voluntarily registered with NYS Education Department and is (are) operated by a non-profit agency or organization or a private proprietary agency (give agency/organization name): _____, **AND**,

The type of child care provided is: *(check ☑ all that apply)*

☐ A nursery school providing services to children for three or less hours per day per child.
☐ A program for pre-school aged children providing services to children for three or less hours per day per child.

☐ C) The program cares for not more than six school age children, is conducted during non-school hours and is not located in a residence.

## C. OTHER QUALIFICATIONS & PROGRAM CHARACTERISTICS

1. Provider's Qualifications to Administer Medication *(Only applies to Legally-Exempt Group Child Care programs that are not under auspices of another government agency, as explained in Subsection IB).*

NYS Law restricts the right to administer medication other than over-the-counter topical ointments, sunscreen and topically applied insect repellent to specific medical professionals who are authorized by NYS to administer medication. Some individuals are exempt from this requirement based on their relationship to the child, family, or household and are "permitted" to administer medications including:

- The child's parent/caretaker, step-parent, legal custodian, legal guardian, or member of the child's household,
- Family members who are related within the 3rd degree of consanguinity to the child's parent or step- parent. This includes the child's grandparent, child's great-grandparent, child's great-great grandparent, child's aunt/uncle (and spouse), child's great aunt/uncle (and spouse), child's first cousin (and spouse), and child's brother/sister.
- Child care providers who are trained and authorized by the Office of Children and Family Services (OCFS), under a Health Care Plan for Administration of Medication, approved by a qualified health care consultant, and who are:
  - Operating in compliance with the NYS regulation which includes receiving training on medication administration,
  - Authorized by the child's parent/caretaker, step-parent, legal guardian, or legal custodian to administer medication, **AND**
  - Administering medication to subsidized children in care.

To receive OCFS authorization to administer medication, a child care provider must be at least 18 years of age and literate in the language in which the parental permissions and health care provider's instructions will be given.
Any person who is not authorized by NYS Law or not exempt from this legal requirement, may only administer over-the-counter topical ointments, sunscreen and topical insect repellent. Examples of medication they MAY NOT ADMINISTER include, but are not limited to: Tylenol, Ritalin, insulin, antibiotics, and ear, eye or nose drops.

A) Are you, your employee, or your volunteer legally permitted to administer medication to the child(ren) in subsidized care? *Check ☑ statements 1, 2 or 3. Provide all other information as it applies.*

☐ 1) **Yes**. **I am** a NYS medical professional **authorized** by New York State Department of Education (NYSED) to administer medication. Therefore, I **am** allowed to administer medication to children in my care when the provider has appropriate permissions from the parent(s) and in accordance with the health care provider's instructions.

a) Profession (*Check ☑ one):*

☐Registered Nurse ☐Physician
☐Nurse Practitioner ☐Physician Assistant

b) License number: _____.

c) ☐ I have attached a copy of the current NYS professional medical license.

**IF MULTIPLE MEDICAL PROFESSIONALS EXIST, PLEASE ATTACH LIST SEPARATELY.**

☐ 2) **Yes.** I have a Health Care Plan for the Administration of Medication (OCFS-LDSS-7000) approved within the past 2 years. Therefore the qualified medications administrant named below is authorized by OCFS to administer medication to subsidized children in my care according to the health care provider's instructions when there are appropriate permissions from the parent.

a) Plan approval date: _____.

☐ I have attached a copy of the **first page AND the approval page** of my Health Care Plan for the Administration of Medication (OCFS-LDSS-7000).

b) Name of the qualified Medications Administrant: _____.

c) Health Care Consultant (HCC) name: _____.

d) Health Care Consultant Profession (*Check ☑ one):*

☐Registered Nurse ☐Physician
☐Nurse Practitioner ☐Physician Assistant

e) License Number: _____.

☐ 3) **No.** None of the above permissions apply to me. I am not authorized by OCFS or NYSED. I understand I **cannot administer** medication to child(ren) in care, **except**: over-the-counter topical ointments, sunscreen, and topically applied insect repellent.

3a) Are you interested in seeking OCFS authorization to administer medication to the child(ren) in subsidized care?

☐ **Yes.** I want to learn how to start the process. Please send me the OCFS-LDSS-7007 Obtaining Authorization to Administer Medication to the Child(ren) in Legally-Exempt Care.

☐ **No.** I will not be seeking authorization to administer medication at this time.

B) I agree I will administer medication in compliance with NYS Law and only to the extent, indicated by my choice above, that I am permitted by NYS Law to do so.
☐ **Yes.** ☐ **No.**

C) If I have employees or volunteers, I will make sure that each of my employees and volunteers administers medication in compliance with NYS Law and only to the extent permitted by NYS Law.
☐ **Yes.** ☐ **No**.

2. **Program's Hours of Operation**
*(Check ☑ all that apply)*

☐ Full Year
☐ School Year
☐ Summer Only (June-September)

3. Do you charge parents receiving subsidy the same amount you charge for non-subsidy child(ren) of the same age and similar care?

☐A) **Yes.**
☐B) **No.** If **No**, *check ☑ statement 1 or 2 below.*
☐1) I charge parents receiving subsidy **less** than I charge other parents.
☐2) I charge parents receiving subsidy **more** than I charge other parents.

## D. HEALTH AND SAFETY CHECKLIST

**(Only Applies to Groups That Are Not Under Auspices of Another Government Agency As Explained in Subsection I B)**

*The provider/director and the parent/caretaker complete this section together.*
I meet and agree to continue to meet the basic health and safety requirements listed below.
*Check ☑ an answer for each item below:*

| YES | NO | The provider/director meets the following basic health and safety requirements before caring for children: |
|---|---|---|
| ☐ | ☐ | 1. The provider and all children have two separate & remote ways to leave the building in an emergency. |
| ☐ | ☐ | 2. The rooms for the child(ren) at the program site are well-heated, well-lighted and well-ventilated. |
| ☐ | ☐ | 3. The program site is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around those areas that keep children from getting to them. |
| ☐ | ☐ | 4. If child care is provided above the first floor, there are barriers or locks on the windows so the child(ren) cannot fall out. |
| ☐ | ☐ | 5. The water supply at the program site is safe. There are working toilets and there is hot and cold running water all the time. |
| ☐ | ☐ | 6. I, all employees, and volunteers who are likely to have regular contact with the child(ren) are physically, emotionally and mentally able to provide child care. |
| ☐ | ☐ | 7. I, all employees, and volunteers who are likely to have regular contact with the child(ren) are free from any communicable diseases that pose a risk to the health and safety of the child(ren) in care. If I, any employee, or volunteer who is likely to have regular contact with the child(ren) has a communicable disease, I must have a statement from such person's health care provider that indicates that the presence of a communicable disease does not pose a risk to the health and safety of the child(ren) in care. ☐ I have ATTACHED a doctor's statement, if I, any employee, or volunteer who is likely to have regular contact with the child(ren) has a communicable disease and that such disease does not pose a risk to the health and safety of the child(ren) in care. |



Provider Name: _____ Enrollment Number: _____

| YES | NO | The provider/director meets the following basic health and safety requirements before caring for children: |
|---|---|---|
| ☐ | ☐ | 8. The program site is free of any dangerous or unsafe conditions that could hurt the child(ren). This includes but is not limited to:<br>• Knives and other sharp objects are out of the reach of the child(ren).<br>• Small rugs, runners, and electrical cords are held in place so the child(ren) won't trip.<br>• Electrical cords do not run under furniture or rugs and are out of the reach of the small child(ren).<br>• Extension cords are not overloaded.<br>• Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place. Ammunition is locked separately.<br>• Cords to window blinds and shades are out of the reach of the child(ren).<br>• Hot liquids are out of the reach of the child(ren).<br>• Small items that the child(ren) could choke on are out of the child(ren)'s reach.<br>• Carbon monoxide detectors are installed where the child(ren) that I provide care for sleep or nap and on each story of the program site where a carbon monoxide source is located. |
| ☐ | ☐ | 9. All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with the child(ren), where food is prepared, or otherwise may be a danger to the child(ren). I store all of these potentially unsafe materials in an inaccessible area safely away from the child(ren). |
| ☐ | ☐ | 10. The caregiver will give the child(ren) meals and snacks according to what the parent/caretaker and I have agreed. |
| ☐ | ☐ | 11. The caregiver will refrigerate milk, formula and perishable food that goes bad if left out. |
| ☐ | ☐ | 12. The caregiver will not heat formula, breast milk and other food items for infants in a microwave oven. |
| ☐ | ☐ | 13. The caregiver will always allow the custodial parent/caretaker or caretaker to have unlimited access to his/her child(ren) in care, to the program site while the child(ren) is in care, and to any written records concerning the child(ren). |
| ☐ | ☐ | 14. The caregiver will hold fire/evacuation drills monthly with the child(ren) during hours that the child(ren) are in care so that the child(ren) and I will know what to do in the case of an emergency. |
| ☐ | ☐ | 15. The caregiver has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local or State police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |
| ☐ | ☐ | 16. I will use protective caps, covers or permanently installed safety devices on all electrical outlets that the child(ren) could reach when I am caring for the child(ren) under 5 years old. |
| ☐ | ☐ | 17. Paint and plaster are in good repair so that there is no danger of the child(ren) putting paint or plaster chips in their mouths or of it getting into food. |
| ☐ | ☐ | 18. I have at least one operating smoke detector on each floor of the program site. I will check regularly to make sure all detectors work. |
| ☐ | ☐ | 19. I have a portable first aid kit at the program site that is easy to get to in an emergency and my first aid supplies are kept in a clean container or cabinet away from the child(ren). It is stocked to treat common childhood injuries and problems. I will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used. |
| ☐ | ☐ | 20. I have RECEIVED from the child(ren)'s parent/caretaker:<br>• signed proof from a doctor or other health care provider that: the child(ren) has received all of the immunizations appropriate for the child(ren)'s age; **OR**<br>• proof that one or more of the immunizations would harm the child(ren)'s health; **OR**<br>• a statement saying that the child(ren) has not been immunized due to the parent/caretaker's religious beliefs. |
| ☐ | ☐ | 21. The stairs, railings, porches and balconies are in good repair. |

Provider Name: _____ Enrollment Number: _____

## E. PROVIDER/PROGRAM BEHAVIORAL CONDITIONS

| YES | NO | The provider/director meets the following basic health and safety requirements before caring for children: |
|---|---|---|
| ☐ | ☐ | 1. I understand and agree that I will never use physical punishment or let others use physical punishment while child(ren) are in their care. Physical punishment means doing things directly to the child(ren)'s body to punish them, such as:<br>• Spanking, biting, slapping, shaking, twisting, or squeezing;<br>• Making the child(ren) do physical exercises beyond what is normal;<br>• Forcing the child(ren) to stay still for long periods of time;<br>• Making the child(ren) stay in positions that hurt the child(ren) or are bizarre;<br>• Bathing the child(ren) in unusually hot or cold water; and<br>• Forcing child(ren) to eat or have in the child(ren)'s mouth soap, foods, hot spices or foreign substances. |
| ☐ | ☐ | 2. I understand and agree that I will never use or be under the influence of alcohol or drugs while the child(ren) are in care and will make sure that the child(ren) being cared for do not have contact with people using drugs or alcohol. |
| ☐ | ☐ | 3. I understand and agree that I will not smoke or allow smoking in indoor areas or other enclosed areas, such as cars or other vehicles, when the child(ren) are present. |
| ☐ | ☐ | 4. I understand and agree that I will never leave the child(ren) alone or unsupervised. |

## F. RELEVANT HISTORY

### 1. PROVIDER HISTORY

#### A) PROVIDER/DIRECTOR TERMINATION OF PARENTAL RIGHTS

I certify and attest that *(Check☑ one):*

☐ I have **never had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.

☐ I **have had** my parental rights terminated under Social Services Law 384-b or equivalent legal authority.

☐ I have **ATTACHED** the OCFS-LDSS-4917[4], History of Court-Ordered Removal Of A Child And/or Termination of Parental Rights.

#### B) PROVIDER/DIRECTOR COURT ORDERED ARTICLE 10 REMOVAL

I certify and attest that (*Check☑ one*):

☐ I **have never had** a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.

☐ I **have had** a child removed from my care by court order in a proceeding under Article 10 (child protective) of the Family Court Act.

☐ I have **ATTACHED** the OCFS-LDSS-4917[4], History of Court-Ordered Removal Of A Child And/or Termination of Parental Rights.

#### C) PROVIDER/DIRECTOR DAY CARE ENFORCEMENT

A child "day care" program includes licensed or registered day care centers, family day care homes, group family day care homes, small day care centers and/or school age child care programs.

1) I certify and attest that *(check☑ one):*

☐ I **have** had an application for a license or registration to operate a child day care program denied.

☐ I **have not** had an application for a license or registration to operate a child day care program denied.

2) I certify and attest that (*Check☑ one*):

☐ I **have** had a license or registration to operate a child day care program revoked or suspended.

☐ I **have not** had a license or registration to operate a child day care program revoked or suspended.

3) If you have been denied a license or registration to operate a child day care program, OR if you have had a license or registration to operate a child day care program revoked or suspended, complete the following:

Name and location of the child day care program(s) for which this action occurred:

_____

☐ I have **ATTACHED** the OCFS-LDSS-4916[3], History of Day Care Enforcement and Parental Acknowledgement.

_____

[4] If you need a copy of this form, please contact your local social services district or your legally-exempt child care provider enrollment agency.

## 2. Provider, Employees and Volunteers

The provider/director must ask each employee and each volunteer who is likely to have regular contact with the child(ren) in care

- If they have been convicted of a crime.
- if they have been the subject of an indicated report of child abuse or maltreatment.

### A) Persons Helping To Care For Children In My Care

Does your program have any employees, volunteers, and/or others who may help care for or be in contact with the children?

☐ **No.**

☐ **Yes. If yes, answer both questions below.**

1) Did you ask each employee and each volunteer who is likely to have regular contact with the child(ren) in care, if they have been convicted of a crime?

   ☐ **Yes.**

   ☐ **No.**

2) Did you ask each employee and volunteer who may be helping to care for or who have regular contact with the child(ren) if they have been the subject of an indicated report of child abuse or maltreatment?

   ☐ **Yes.**

   ☐ **No.**

### B) Criminal History

Have you, your employee, or your volunteer ever been convicted of a crime in New York State or any other place?

☐ **Yes**. Give the name(s) of person(s) convicted: _____.

☐ I have **ATTACHED** the OCFS-LDSS-4915[3], History of Criminal Convictions And Parental Acknowledgement .

☐ **No.**

### C) Indicated Reports of Child Abuse Or Maltreatment

I have informed the parent/caretaker whether I , my employees, volunteers, and/or others who may help care for or be in contact with the children have been the subject of any indicated reports of child abuse or maltreatment. When an indication of child abuse or maltreatment exists, I have given the parent/caretaker, in writing, true and accurate information, including:

- a description of the incident(s), **AND**
- the date of the indication(s), **AND**
- any other relevant information regarding the indication(s).

☐ **Yes.**

☐ **No.**

# G. Provider Agreements and Certifications

## 1. Submitting Updates and Changes of Enrollment Information

- I will immediately request and submit a new enrollment form to the enrollment agency if I start providing child care at a child care location different from the one given on this form.
- I will inform the enrollment agency immediately if there are changes in any information provided on the enrollment form or changes to the attachments.

## 2. Information Sharing

- I understand the enrollment agency and the local social services district will exchange information regarding my child care programs enrollment status.

## 3. Eligibility and Payment

- I understand that I may not be eligible to provide child care AND that the local social services district may not be able to pay me when:
  - I have a history of Article 10 (child protective) removal of a child by family court order, or
  - I have a history of termination of parental rights, or
  - I have a history of denial, revocation and/or suspension of a license or registration to operate a child day care program.
- I understand I am not eligible to provide child care if I, any volunteer who is likely to have regular contact with the child(ren), or any employee has been convicted of a crime against a child(ren).
- I understand that I may not be eligible to provide child care or receive payment if I, any volunteer who is likely to have regular contact with the child(ren), any employee, or any such other person listed in part C of this section, age 18 years or older has been convicted of a crime.

- I understand that if the enrollment agency determines I cannot be enrolled, then the local social services district cannot issue payment for care I have provided. I will not be paid by the local social service district for any child care that I provide to a child(ren) receiving a child care subsidy, while I am deemed an ineligible provider by the enrollment agency. The parent/caretaker has the right and responsibility to decide whether he/she wants to use me. If the parent/caretaker chooses to use me when I cannot be enrolled, the parent/caretaker is responsible to pay me for the child care.
- I understand that I must be enrolled with the enrollment agency before any payment can be made.
- I understand that I cannot be paid as a legally-exempt child care provider if I am the child(ren)'s parent, stepparent, adoptive parent, legal guardian or other person legally responsible for the child(ren) or if I live in the same household and have a child(ren) in common with the parent.
- I agree to provide accurate attendance records as required by the local social services district.
- I agree to collect the family share (fee) if instructed to do so by the local social services district. I will immediately notify the local social services district if the parent/caretaker fails to pay the required family share.
- I understand that I cannot be enrolled until all items marked, "No" on the Health and Safety Checklist have been corrected

### 4. Other Agreements

- I understand and agree to allow representatives of the enrollment agency, the local social services district and the State of New York access to the premises where subsidized child care is provided to confirm that information on my enrollment form and/or on attendance forms is true and accurate and that child care services are being provided as listed on these forms. I understand that if I do not allow such access, then I will be considered an ineligible provider, my enrollment will be terminated and I will not be paid by the local social services district.
- I understand that if I am denied enrollment that I may request that the enrollment agency review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all documents or references required by the enrollment agency.
- I understand and agree to meet all of the conditions stated on this form for as long as I am providing child care. I understand that I am required to inform the enrollment agency and the parent/caretaker if there is a change in the information stated on the enrollment form.

## H. Provider Certification

By signing this form I certify to the best of my knowledge that:

- I understand and agree to continue to meet all conditions stated above.
- **I have reviewed the "Parent Information Section" of this form**.
- I understand the decision to enroll me is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If I provide child care services while enrolled under false pretenses, or while I am an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, take legal action against me or the parent/caretaker and I may be required to repay any money I receive for such services.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PROVIDER SIGNATURE | DATE: |
|---|---|
| | |

# II. PARENT INFORMATION SECTION

*The parent/caretaker receiving or applying for child care subsidy must complete this section AND review the "Child Care Provider" Section.*

## A. PARENT/CARETAKER[5] INFORMATION

1. **Parent/Caretaker's Name**:

☐Mr. ☐Mrs. ☐Ms.

Last First MI Suffix

Other names known by: _____
Maiden, married, aliases, etc

2. **Identifying and Contact Information**:

Date of Birth: / / (mm/dd/yyyy) Home Phone: ( ) ☐ Listed ☐Unlisted

Work Phone: ( ) Cell Phone: ( )

E-Mail Address:[6] ☐ No E-Mail Address

3. Do you read English? ☐**Yes** ☐ **No.** If No, what languages do you read best? _____.

4. Do you speak English? ☐ **Yes** ☐ **No.** If No, what languages do you speak best? _____.

5. **Home Address**: Is your home address the same as your mailing address? ☐ **Yes** ☐ **No.** If no, give mailing address below.

House Number Street Apt.

Address Line 2 Floor

City State Zip County/Borough

6. **Mailing Address:**

House Number Street Apt.

Address Line 2 Floor

City State Zip County/Borough

7. **Your Child Care Subsidy Case:**

Subsidy Paying County: Temporary Assistance No.[7]:

Subsidy Case Number[7]: Parent's CIN[7] Number:

8. **Child Care Provider's Name:**

☐ Mr. ☐ Mrs. ☐ Ms.

Last First MI Suffix

---

[5] Caretaker means the child's parent, legal guardian, caretaker relative or any other person with whom a child lives and who has assumed responsibility for the day-to–day care and custody of the child.
[6] The e-mail address if given may be used by the enrollment agency to contact you.
[7] The Temporary Assistance Number, Subsidy Case Number and Parent's CIN (Client Identification Number) are optional. If given, they will be used to facilitate information sharing with the local social services district regarding your eligibility and payment for child care.

## B. CHILD(REN) IN THE PROVIDER'S CARE

### 1. MY CHILD(REN) THAT THE PROVIDER CARES FOR.

A) Child's Name: _____
Last First

District CIN _____ Date of Birth: / /
(mm/dd/yyyy)

B) Child's Name: _____
Last First

District CIN _____ Date of Birth: / /
(mm/dd/yyyy)

C) Child's Name: _____
Last First

District CIN _____ Date of Birth: / /
(mm/dd/yyyy)

D) Child's Name: _____
Last First

District CIN _____ Date of Birth: / /
(mm/dd/yyyy)

### 2. MY CHILD(REN)'S MEDICATION NEEDS

I am responsible for deciding how my children's medication needs will be met.

I understand that child care providers ***cannot*** administer medication to the child(ren)in my care, *except as follows*:

- Any child care provider may administer only *over-the-counter topical ointments, insect repellent, and sunscreen,* with the parent's permission.
- When the child care provider is a licensed physician, physician's assistant, registered nurse, or nurse practitioner, the provider can administer prescription and over-the-counter medication to the subsidized child(ren) with the parent's permission.
- When the child care program is authorized by OCFS and following a Health Care Plan for the Administration of Medication, the medications administrant designated in the Health Care Plan for the Administration of Medication may administer over-the-counter medication and some prescription medication to subsidized child(ren) with the permission of the parent and following physician's instructions.
- OCFS does **not** "authorize" legally-exempt group programs operating under the auspices of a federal, State or local government or tribal agency to administer medications. Such programs must follow the regulations set forth by the federal, State or local government or tribal agency that the program is operating under.

I have read section above regarding the extent to which a child care provider can administer medication. I have read the Provider's Qualifications to Administer Medication in Section I subsection C and I understand whether he or she is legally permitted to administer medication to my child(ren). My child care provider and I have discussed who will administer medication to my child(ren) while the child(ren) is in the provider's care and we have agreed that:

☐ I will be responsible for the medication needs of the following children:

_____.

☐ The provider will be responsible for the medication needs of the following children:

_____.

### 3. MY CHILD(REN)'S MEALS AND SNACKS

For each child(ren) listed on the preceding page, either the parent or the provider must provide meals and snacks. Who will provide meals and snacks for your child(ren) while in care?

☐ I will be responsible for the meals and snacks for the following child(ren):

_____.

☐ The provider will be responsible for the meals and snacks for the following child(ren):

_____.

## C. Relevant History of the Provider and People At the Child Care Location

1. I understand the child care provider must tell me whether the following people, who may be in contact with my child(ren), have been the subject of an indicated report of child abuse or maltreatment:
   - the provider,
   - volunteers who are likely to have regular contact with child(ren) in care,
   - employees, and
   - if care is not provided in my home, persons living in the home age 18 years or older.

   ☐ **Yes.**
   ☐ **No.**

- I have specifically asked the provider if the provider, volunteers who are likely to have regular contact with child(ren) in care and/or employees, have been the subject of an indicated report of child abuse or maltreatment.
- The provider has informed me whether any indicated reports of child abuse or maltreatment exist, which name as subject of the report: the provider, employees and/or volunteers who are likely to have regular contact with child(ren) in care.
- When an indication of child abuse or maltreatment exists, the provider has given me written information regarding such indication of child abuse or maltreatment. I understand I have the right to select another provider. I agree that I have carefully considered the information on child abuse and maltreatment indications that I have been given and I am selecting this provider.

  ☐ **Yes.**
  ☐ **No.**

## D. Parental Acknowledgements & Certifications

### 1. Parent Responsibilities to Monitor Quality of Care

- I certify that I have selected this provider/program to care for my child(ren).
- I have reviewed each item on the Health and Safety Checklist and the Provider/Director Behavioral Conditions Checklist with the provider, located in the Child Care Provider Section, and all information on the checklists is true and accurate.
- I understand it is my responsibility to monitor the quality of care my child(ren) receives from the child care provider.
- I understand that these agreements apply for as long as this provider is caring for my child(ren).

### 2. Changes to Enrollment Information

- I will notify the enrollment agency immediately if:
  - My address or phone number changes
  - I have any concerns about the health and safety of my child(ren) in the provider's care.

### 3. Eligibility and Payment Issues

- I will immediately notify the local social services district and my provider if the hours that I need child care or other circumstances related to my need or eligibility for child care change.
- I agree to pay my family share (fee), if any, as directed by the local social services district.
- I understand that the provider must be accepted for enrollment with the Enrollment Agency before any payment can be made.
- I understand a provider may not be eligible to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren) or any employee has been convicted of a crime.
- I understand a provider is not eligible to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren), or any employee has been convicted of a crime against a child(ren).
- I understand a provider is not eligible to provide child care if the provider is listed on the Sex Offender Registry.
- I understand a provider is not eligible to provide child care if the provider, any volunteer who is likely to have regular contact with my child(ren) or any employee has been convicted of a crime against a child(ren), or a violent or other serious crime.

- I understand that my provider may not be eligible to provide child care and that the local social services district may not be able to pay the provider when the provider has a history of:
  - Termination of parental rights, or
  - Article 10 (child protective) removal of a child(ren) by family court order, or
  - Denial, revocation and/or suspension of a license or registration to operate a child day care program.
- I understand that if the provider is denied enrollment or has his or her enrollment terminated, the provider will be considered ineligible to provide child care. The local social services district cannot pay the provider or issue payment for care given by a provider who cannot be enrolled or who is ineligible.
  - If I choose to use an ineligible provider, I am responsible to pay for the child care myself.
  - I understand I have the right to select another provider.

## 4. Health and Safety Requirements

- I understand that for group child care programs not operating under the auspices of another federal, State, or local government or tribal agency that:
  - Payment cannot be made until all items marked "No" on the Health and Safety Checklist have been corrected.
  - The provider must continue to meet all the basic health and safety requirements listed on the checklist.
    - The provider and I have inspected the program site and completed the Health and Safety checklist together.
    - All statements on the Health and Safety checklist are true and accurate.
    - The provider and I will notify and provide documentation to the enrollment agency when any item on the checklist has been corrected or changed.

## 5. Parent Certification

By signing this form I certify to the best of my knowledge that:

- **I have reviewed the "child care provider" section of this form.**
- I understand and agree to continue to meet all conditions stated above.
- I understand the decision to enroll my provider is based on the facts provided and attested to on the enrollment form. Providing false information or deliberately concealing information may result in an inaccurate determination of my provider's eligibility to provide subsidized child care, and/or a denial or termination of enrollment. If my provider provides child care services while enrolled under false pretenses, or while he or she is an ineligible child care provider, the Local Social Services District may refuse to issue child care subsidy payments, terminate child care subsidy payments, take legal action against me or the child care provider.
- Under the penalty of perjury, I agree that to the best of my knowledge all statements made on this enrollment form and any attachments to it are true and accurate.

| PARENT/CARETAKER SIGNATURE | DATE |
|---|---|
| | |

**This enrollment form is a legal agreement. Make a copy of this form for your records.**
**Return this form and its attachments to:**

Provider Name: _____ Enrollment Number: _____

# DISTRICT NOTIFICATION TO LEGALLY-EXEMPT CAREGIVER ENROLLMENT AGENCY

| FROM SOCIAL SERVICES DISTRICT | TO ENROLLMENT AGENCY | |
|---|---|---|
| PROVIDER NAME | CCFS NUMBER | TODAY'S DATE |

☐ **I. NEW YORK STATE ENROLLMENT REQUIREMENT FOR LOCAL CHILD WELFARE DATABASE CHECK**

The district conducted a search of its local database on _____ / _____/ _____ and the results follow.

1. The child care provider *(choose one)* ☐ ***was found /*** ☐ ***was NOT found*** in a search of the local child welfare database to be the respondent in court-ordered removal and/or placement of a child under Family Court Act Article 10.
2. The child care provider was *(choose one)* ☐ ***was found /*** ☐ ***was NOT found*** in a search of the local child welfare database to have his or her parental rights terminated under Social Services Law (SSL) 384-b.

☐ **II. OCFS APPROVED ADDITIONAL LOCAL STANDARD (IF APPLICABLE)**

The results of the additional standard(s) are as follows *(Give a brief description of each OCFS-approved local requirement, the name of the person it is applicable to and ☑ whether the requirement is met or not met):*

| | DESCRIPTION | APPLICABLE TO (NAME) | RESULT |
|---|---|---|---|
| 1. | | | ☐ MET ☐ NOT MET |
| 2. | | | ☐ MET ☐ NOT MET |
| 3. | | | ☐ MET ☐ NOT MET |
| 4. | | | ☐ MET ☐ NOT MET |

☐ **III. REVIEW OF EXTENUATING CIRCUMSTANCES DETERMINATION**

☐ A review of extenuating circumstances has been completed and the district has:

☐ **GRANTED** an exception to the presumption against enrollment, because the provider has demonstrated that enrollment will not jeopardize the health, safety or welfare of children in the provider's care. The provider **may be considered** for enrollment.

☐ **DENIED** an exception to the presumption against enrollment. The provider **cannot be considered** for enrollment.

☐ **IV. LOCAL DISTRICT DECISIONS REGARDING LEGALLY-EXEMPT CHILD CARE PROVIDER**

☐ The district has **rejected** this legally-exempt child care provider **for this child/family only**.

**Parent Name:** _____, per the Codes, Rules and Regulations of New York, (NYCRR) Title 18,

☐ 415.1(l), the child care provider is not eligible to provide care **for this child/family** because he/she is an adult member of this family's Child Care Services Unit and is not a sibling to the child(ren).

☐ 415.1(g)(6 and 7) and 415.4(c)(1)(i), the funding source cannot be used for legally-exempt child care.

☐ 415.4(c)(1)(ii), the district believes it would be contrary to the health, safety or welfare of the child to receive child care services from the provider and the district has the authority to disapprove the service.

☐ The child care provider's **eligibility** to care for **ALL subsidized children** was **suspended** on: _____ / _____ / _____. The provider may obtain an explanation by contacting: (district staff)

_____ at (phone) _____.

☐ The child care provider's **suspension of eligibility** ended on (date): _____ / _____ / _____.

☐ The provider is **DISQUALIFIED** from receiving payment under the child care subsidy program for child care services provided for a period of five years, per 18 NYCRR 415.4 (h)(2)(i).

Disqualification Start Date: _____ / _____ / _____ Disqualification End Date: _____ / _____ / _____

☐ **V. COMPLAINT REGARDING LEGALLY-EXEMPT CHILD CARE PROVIDER**

☐ The district has reason to believe the child care provider is/was **in violation** of 18 NYCRR,

☐ 415.1(h)(1), by caring for more children than allowed from (dates _____ / _____ / _____ to _____ / _____ / _____.

☐ 415.4(c)(iv) by denying a parent access to his/her child, the premises, or written records concerning the child.

☐ 415.6(e)(2), by charging a subsidy parent an amount greater than that charged to a non-subsidy parent for similar child care services.

☐ Other, please identify regulation: _____

☐ Supportive documentation is attached.

☐ **VI. CHILD CARE SUBSIDY CASE INFORMATION**

**Parent Name:** _____

☐ The child care subsidy is: ☐ Approved. ☐ Disapproved. ☐ Closed.

☐ The parent is: ☐ Not using this provider. ☐ Using this provider.

| SIGNATURE | DATE | PHONE |
|---|---|---|
| | | |

**ATTACHMENT D**

**(Model) NON-DISCLOSURE AGREEMENT for District and Contractor**

between

the _____ County Department of Social Services (DEPARTMENT)

and _____(CONTRACTOR)

**THIS AGREEMENT** is between DEPARTMENT, having its principal place of business at _____, New York _____, and CONTRACTOR, having its principal place of business at _____.

**WITNESSETH**

**WHEREAS,** CONTRACTOR is under engagement by DEPARTMENT to _____; and

**WHEREAS**, it is in the interests of all parties that discussions and information or data exchanged be carried on in a controlled environment, and that confidential or proprietary information or data (all hereinafter referred to just as "confidential information") developed by the parties, or accessed from other sources by virtue of DEPARTMENT having access to such sources, or the ability to arrange access to such sources for CONTRACTOR or CONTRACTOR's employees or agents, be protected from further disclosure unless DEPARTMENT approves of its release, and that any confidential information be protected from disclosure to third parties, other than on a need-to-know basis;

**NOW, THEREFORE,** for and in consideration of the engagement of CONTRACTOR to perform services for DEPARTMENT, CONTRACTOR agrees to the following:

I. All information or data (oral, visual or written, including electronic) of which CONTRACTOR and/or its employees or agents become aware as a result of CONTRACTOR's engagement with DEPARTMENT shall be deemed to be confidential information. Notwithstanding the foregoing, information or data which falls into any of the following categories shall not be considered confidential information:

a. information or data that is previously rightfully known to the receiving party without restriction on disclosure;

b. information or data that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and

c. information or data that is independently developed by CONTRACTOR and/or its employees or agents without use of confidential information of DEPARTMENT or any State or governmental agency.

II. Except as specifically permitted in this Non-Disclosure Agreement or by DEPARTMENT, CONTRACTOR and/or its employees or agents shall not, at any time, in any fashion, form, or manner, either directly, indirectly or accidentally, divulge, disclose, communicate or use, either prior to, during or subsequent to any engagement, any confidential information or methods of

accessing information or data received, obtained, acquired, directly, indirectly or accidentally, or developed in association with any engagement unless necessary to effectuate the purposes of the engagement.

III. CONTRACTOR agrees that any confidential information received from DEPARTMENT, or accessed from other sources by virtue of DEPARTMENT having access to such sources, or the ability to arrange access to such sources for CONTRACTOR or CONTRACTOR's employees or agents, shall be provided only to those designated staff of DEPARTMENT and CONTRACTOR on a pre-approved and need-to-know basis, and that it shall be provided to only those of its employees or agents who have signed a non-disclosure agreement provided or approved by DEPARTMENT. CONTRACTOR agrees that when access to such information or data also results in access to confidential information beyond that which is necessary for the purpose for which access was granted, it will access only the information or data needed for the purpose for which access was given. CONTRACTOR shall take all reasonable steps to inform such employees or agents of their non-disclosure responsibilities with respect to CONTRACTOR's engagement by DEPARTMENT. When such employees or agents no longer have a need for access to such confidential information, whether because of termination of employment, reassignment of job duties or otherwise, CONTRACTOR shall ensure that the access of such employees or agents to such confidential information is terminated, unless access is needed for other engagements for which CONTRACTOR, and such employees or agents, have been granted access and have signed Non-Disclosure Agreements.

IV. CONTRACTOR acknowledges and agrees that it, and its employees, subcontractors or agents, are bound by applicable Federal and State laws governing confidentiality and/or privacy of information, which may include but which are not limited to:

**a.** Section 372 of the Social Services Law;
**b.** Parts 357.3 and 423.7 of Title 18 of the NYCRR; Section 114 of the Domestic Relations Law, Sections 373-a and 409-f of the Social Services Law; Section 168.7 of Title 9 of the NYCRR; and Section 501-c of the Executive Law;
**c.** Section 460-e of the Social Services Law; and
**d.** Section 444 of the Social Services Law; and
**e.** Section 422 of the Social Services Law and section 432.7 of Title 18 of the NYCRR; and
**f.** Sections 465.1 and 466.2 of Title 18 of the NYCRR;
**g.** Section 164.7 of Title 9 of the NYCRR and Section 2782 of the Public Health Law;
**h.** Section 431.7 of Title 18 of the NYCRR; and
**i.** Section 459-g of the Social Services Law and Section 452.10 of Title 18 of the NYCRR;
**j.** Section 462.9 of Title 18 of the NYCRR;
**k.** Section 473-e of the Social Services Law and Section 457.16 of Title 18 of the NYCRR; Section 361.38 of Title 34 of the CFR; and
**l.** Section 136 of the Social Services Law.

V. CONTRACTOR agrees to immediately notify DEPARTMENT of any request for information or data concerning or related to DEPARTMENT business that does not come from an individual involved in the project.

VI. CONTRACTOR agrees not to issue any press releases, give or make any presentations, or give to any print, electronic or other news media information regarding its engagement without the advance approval of DEPARTMENT.

VII. CONTRACTOR agrees that all confidential information in its possession as a result of the engagement is at all times the sole property of DEPARTMENT, and that CONTRACTOR will turn over to DEPARTMENT all reports, notes, memoranda, notebooks, drawings, and other information or data developed, received, compiled by or delivered to CONTRACTOR and/or its employees or agents relating to any engagement for services, regardless of the source of said information or data, upon termination of any engagement. CONTRACTOR agrees to return or, with the consent of DEPARTMENT, destroy all confidential information at the conclusion of the engagement or at an earlier date set forth by DEPARTMENT. Destruction includes the complete purging of all confidential information from all computers and back-up media storage, in a manner that meets media disposal standards promulgated by the New York State Office of Cyber Security. CONTRACTOR shall certify in writing that it has complied with the obligations set forth in this section.

VIII. CONTRACTOR and/or its employees or agents shall not attach or load any additional hardware or software to DEPARTMENT or State equipment unless authorized by DEPARTMENT, and will use only those access rights and will access only those systems, directories, information or data authorized for its/his/her use by DEPARTMENT. All requests for access must be communicated to DEPARTMENT's Systems Administrator, and to the appropriate State agency's Information Security Officer or his/her designee.

IX. CONTRACTOR agrees to take no actions which intrude upon, disrupt or deny services to DEPARTMENT, unless prior authorized and in such a manner as directed by DEPARTMENT's Systems Administrator or his/her designee.

X. In addition to the consent of DEPARTMENT required in paragraph VIII and IX, the prior written consent of the applicable New York State agency's Information Security Officer or his/her designee shall be required for such actions taken with respect to any statewide system or database.

XI. CONTRACTOR agrees to transmit confidential information, including client data, to DEPARTMENT only through the use of secure methods as designated by DEPARTMENT for such purposes.

XII. CONTRACTOR agrees:

a. to use the confidential information furnished under this Agreement only for the purposes described in the engagement and herein; and

b. to retain such confidential information only so long as may be necessary to effectuate the purposes of the engagement.

XIII. CONTRACTOR agrees to store confidential information received in secure, locked containers. Where data is stored on a computer or other electronic media, CONTRACTOR must have an appropriate computer security policy that protects confidential information from unauthorized disclosure. The computer security policy must include provisions that address the physical security of computer resources; equipment security to protect equipment from theft and unauthorized use; software and data security; and access control. Any access to the stored data, wherever or however stored, must be limited to personnel who have an official business need, and who have signed a Non-Disclosure Agreement substantially similar to that signed by CONTRACTOR's other employees or agents who have access to the stored data. Responsibility for computer security must be assigned to a specific individual or organization, and the assignment must be documented.

XIV. CONTRACTOR agrees that if it and/or its employees or agents breaches or threatens to breach this Agreement, in addition to having any engagement terminated, DEPARTMENT shall have all equitable and legal rights (including the right to obtain injunctive relief) to prevent such breach and/or to be fully compensated (including reasonable attorneys' fees) for losses or damages resulting from such breach. CONTRACTOR acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy to fully protect the confidential information as defined in this Agreement. CONTRACTOR further understands and agrees that the terms of this Non-Disclosure Agreement shall survive any term of the engagement, and CONTRACTOR will abide by the terms of this Non-Disclosure Agreement in perpetuity.

XV. CONTRACTOR shall indemnify and hold harmless DEPARTMENT and the applicable State Agency as well as the State of New York from any and all claims, suits, damages, and costs of any kind including attorney fees, and causes of action arising out of or in any way related to the terms of CONTRACTOR's engagement, including but not limited to unauthorized disclosure of any confidential information received hereunder.

XVI. CONTRACTOR agrees that it shall not assign or subcontract its obligations under this Agreement.

**IN WITNESS WHEREOF,** CONTRACTOR has signed this Non-Disclosure Agreement as of the date set forth below.

By: _____
Title: _____

Date: _____

STATE OF_____) ) SS:
COUNTY OF _____)

On this ____day of_____, 201___, before me personally came _____, to me known, who, being duly sworn by me, did depose and say that (s)he resides at _____, that (s)he is the _____ (the President, principal or other officer or director or attorney-in-fact duly appointed) of _____, the business or organization described in and which executed the above instrument; and that (s)he signed her/his name thereto by authority of the governing body of said business or organization.

_____

Notary Public

**ATTACHMENT E**

**(Model) NON-DISCLOSURE AGREEMENT for District to use with Contractor's Employee, Subcontractor or Agent**

This Agreement is executed by and between the _____ County Department of Social Services (DEPARTMENT), having its principal place of business at _____, New York_____, and *[INSERT NAME OF THE INDIVIDUAL]* (hereinafter referred to as either "I," "me" or "INDIVIDUAL"), as an employee, subcontractor or agent of _____(CONTRACTOR). *[INSERT NAME OF THE CONTRACTOR]*

I am an employee, subcontractor or agent of *[INSERT NAME OF CONTRACTOR]*, which is under engagement by DEPARTMENT, pursuant to_____ *[REFERENCE THE AGREEMENT]* (hereinafter referred to as "Engagement"), to _____. *[DESCRIBE THE ENGAGEMENT]*

I understand that as part of performing the duties outlined in and associated with the Engagement, I may have access to, see or hear confidential or proprietary information or data (all hereinafter referred to just as "confidential information"). All information or data (oral, visual or written, including electronic) of which I become aware as a result of the Engagement shall be deemed to be confidential information.

I understand and agree that the use of confidential information obtained in the performance of my duties shall be limited to purposes directly connected with such duties, unless otherwise provided in writing by DEPARTMENT. When access to such information or data also results in access to confidential or proprietary information or data beyond that which is necessary for the purpose for which access was granted, I agree to access only the information or data needed for the purpose for which access was given.

When I no longer require access to confidential information, whether because of termination of employment, reassignment of job duties or otherwise, I agree that I will not access or attempt to access any of DEPARTMENT's confidential information, or any confidential information in State systems or other sources to which I have been given access as a result of the Engagement, and will turn over to CONTRACTOR all reports, notes, memoranda, notebooks, drawings, and other information or data developed, received, compiled by or delivered to me relating to the

Engagement, regardless of the source of the said information or data. I will certify in writing that I have complied with the obligations set forth in this section.

I understand that the law forbids disclosing such information, in whole or part, to anyone unless specifically directed to do so by DEPARTMENT. I agree that I will not disclose it unless I am specifically directed to do so by CONTRACTOR or DEPARTMENT. I further understand that if I am unsure as to what information is confidential, I will immediately consult with CONTRACTOR and/or DEPARTMENT program managers involved with the Engagement prior to any such disclosure.

I will safeguard, and will not disclose to unauthorized parties, any user name and/or password that may be issued to me in furtherance of my access to the confidential information unless authorized by DEPARTMENT. I understand that my access to the confidential data may be revoked at any time if my responsibilities change, or for any other reason at the discretion and direction of CONTRACTOR or DEPARTMENT.

I will comply with all applicable Federal and State laws and regulations and with all applicable policies and procedures as set by the State of New York and DEPARTMENT, including, but not limited to, the confidentiality provisions of Section 372 of the New York State Social Services Law.

I will promptly report, to DEPARTMENT and CONTRACTOR, activities by any individual or entity that I suspect may compromise the availability, integrity, security or privacy of the confidential information. I will immediately notify CONTRACTOR of any request for information or data concerning or related to DEPARTMENT business that does not come from an individual involved in the project.

I agree not to attach or load any additional hardware or software to DEPARTMENT or State equipment unless authorized by DEPARTMENT, and that I will use only those access rights and will access only those systems, directories, information or data authorized for my use by DEPARTMENT.

I agree not to take any actions which intrude upon, disrupt or deny services to DEPARTMENT, unless prior authorized and in such a manner as directed by DEPARTMENT's Systems Administrator or his/her designee.

I agree to store confidential information received in secure, locked containers or, where data is stored on a computer or other electronic media, in accordance with CONTRACTOR's computer security policy that protects confidential information from unauthorized disclosure.

I agree not to issue any press releases, give or make any presentations, or give to any print, electronic or other news media information regarding my employment by, or my relationship with, CONTRACTOR with respect to the Engagement with DEPARTMENT, without the advance approval of DEPARTMENT.

I understand and agree that the terms of this Confidentiality and Non-Disclosure Agreement shall continue even when I am no longer an employee, subcontractor or agent of CONTRACTOR, and that I will abide by the terms of this Confidentiality and Non-Disclosure Agreement in perpetuity.

I understand that failure to comply with these requirements may result in disciplinary action, termination and/or criminal prosecution, as well as any other penalties provided by law.

This Agreement shall be governed by the laws of the State of New York, unless otherwise required by the Federal Supremacy Clause.

_____

INDIVIDUAL's printed name

_____

INDIVIDUAL's signature

_____

Entity of which INDIVIDUAL is an employee, subcontractor or agent *[INSERT NAME OF CONTRACTOR]*

_____

Date

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# EMPLOYMENT OF MINORS

*This form must be completed by any child care provider who is under 18 years of age.*

| PROVIDER NAME : | DATE OF BIRTH: |
|---|---|

1) I agree to the following conditions:
   - I am at least 14 years old.
   - I do not and will not provide child care during the hours I am required to be in school.
   - I understand additional restrictions may apply to me based on the type of care I provide, and they are listed below.

2) The type of care I provide is:

☐ A.) **I provide In-Home Child Care**. I provide care *in the home of the children*. I provide care ONLY for children who live in the home where the care is provided. Working papers are not required. However, if at any time I begin to provide Family Child Care I must follow the requirements listed below.

**OR**

☐ B.) **I provide Family Child Care.** I provide care in a residence and I provide care for at least one child who does NOT live in that residence.

1) I am required to have working papers.
   ☐ I have attached a copy of my working papers *(Required for all minors providing family child care)*.

2) The Family Child Care is provided in the following residence:

   ☐ a. In my home. My parent/caretaker has signed below.

   ☐ b. In a home other than the home of the children and other than my home. The adult in charge of the residence has signed below.

3) The hours I work are restricted based on my age and whether I am enrolled in school.

   ☐ a. I am **14 or 15 years old and enrolled in school**.
   While school is in session, I do not provide care between the hours of 7:00 PM and 7:00 AM; and I work no more than 3 hours on any school day; no more than 8 hours on a Saturday, Sunday or holiday; and, no more than 18 hours per week;
   **AND**
   When school is not in session (during school vacations), I do not provide care between the hours of 9:00 PM and 7:00 AM; and, I work no more than 8 hours per day and 40 hours per week.

   ☐ b. **I am 16 or 17 years old and enrolled in school**.
   While school is in session, I do not provide care between the hours of 10:00 PM to 6 AM. However, with the written consent of my parent and a certificate of good academic standing from my school, I may work additional hours from 10:00 PM up to midnight. I work no more than 4 hours on any school day, except Friday; no more than 8 hours a day on Friday, Saturday, Sunday and holidays; and, no more than 28 hours per week,
   **AND**
   When school is not in session (during school vacations), I do not provide care between midnight and 6:00 AM; and, I work no more than 8 hours per day and 48 hours per week.

   ☐ c. **I am 16 or 17 years old and I am not enrolled in school.** I can work full time throughout the year. I do not provide care between midnight and 6:00 AM; and, I work no more than 8 hours per day and 48 hours per week.

**By signing this form I agree that all of the above statements are true and accurate.**

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| SIGNATURE OF PARENT/CARETAKER OF MINOR PROVIDER OR ADULT IN CHARGE OF THE HOME: | DATE: |
| PRINT NAME OF PARENT/CARETAKER OF MINOR OR ADULT IN CHARGE OF THE HOME: | DATE: |

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# EMPLOYMENT OF MINORS, INFORMATION

All minors may not work during the hours when they are required to attend school**.** The limitations on the working hours of minors depend upon age, the type of work, and whether the minor is enrolled in school. New York State has one of the most stringent child labor laws in the country, which limits the number of hours that minors under 18 year of age may work when school is in session. It requires that 16 and 17 year-olds may not work past 10 p.m. on the night before a school day without written permission from a parent and a certificate of satisfactory academic standing from their school.
In addition to the limitations on the number of hours minors may work in a day or a week, the law prohibits them from working before or after certain hours, depending on their age and occupation.

## 1. School Attendance

Full-time school is compulsory for minors under 16 years old. A community can require minors who are not employed to attend school until they reach age 17 or graduate. High school graduates, regardless of age, are not required to continue attending school. However, they must provide an employer with a Full-time Employment Certificate until they reach their 18th birthday. Minors may not work during the hours when they are required to attend school**.**

The school attendance requirement **applies to all minors** providing legally-exempt child care, including babysitters.

## 2. Minimum Age For Employment

- Minors not yet 14 may not be employed at any time, neither after school nor during vacation.
- Minors 14 and 15 years old may work after school hours and during school vacations.
- Minors 16 and 17 years of age, who are enrolled in school, may work after school hours and during school vacations.
- Minors 16 and 17 years of age, if not enrolled in school, may work full time throughout the year.

The minimum age requirement **applies to all minors** providing legally-exempt child care, including babysitters.

## 3. Department of Labor Exceptions for "Babysitters"

The Office of Children and Family Services (OCFS) regulations allow for minors age 14 years of age or older, who meet the requirements set forth in Article 4 of the New York State (NYS) Labor Law (LL) for the employment of minors, to become enrolled informal child care providers. NYS LL specifies types of employment, including *babysitting*, which are exempt from the requirements for employment of minors pertaining to employment certificates/permits and work hours. Babysitting conducted by a minor is defined in New York State Labor Law, Article 4, section 131 *"staying with and at the home of a younger child or children with or without the presence at such home of such child's or children's parents or guardians."* OCFS recognizes that legally-exempt "in-home" child care providers defined in 18 NYCRR § 415 are babysitters. Minors providing legally-exempt family child care are *not* babysitters.

## *4. Hours of Work-Vary by Age*

### A. <u>Minors age 14-15</u>

When school is in session, generally from September to June, minors 14 and 15 years-old may not work in any occupation except farm labor and selling or distributing newspapers for:

- more than 3 hours on any school day,
- more than 8 hours on a Saturday, Sunday or holiday,
- more than 18 hours in any week, and
- more than 6 days in any week.

***Note:*** *Babysitters are not subject to the above limits on hourly, daily and weekly employment.*

However, if a 14 or 15 year-old minor is employed as part of any type of supervised work study or work experience program that is approved by the Commissioner of Education, they may work 3 hours on a school day and 23 hours a week, instead of 3 hours a day and 18 hours a week.

#### NIGHT RESTRICTIONS FOR MINORS AGE 14-15

Minors under 16 may not work between 7 p.m. and 7 a.m. in most jobs, after Labor Day to June 20th and between 9 p.m. and 7 a.m. from June 21st to Labor Day.

### B. Minors age 16-17 Enrolled in School

When school is in session, minors 16 and 17 years-old enrolled in a day school, other than a part-time or continuation school, may not work in any occupation (except farm work and selling or distributing newspapers):

- more than 4 hours on any day preceding a school day (M, T, W, Th.),
- more than 8 hours on Friday, Saturday, Sunday, or Holiday,
- more than 28 hours in any week,
- more than 6 days in any week.

*Note: Babysitters are not subject to the above limits on hourly, daily and weekly employment.*

However, students enrolled in a cooperative work experience program approved by the Department of Education may be employed up to a maximum of 6 hours on a day preceding a school day other than a Sunday or a holiday if these hours are in conjunction with the program. Any hours worked in such program shall be included when calculating the number of hours worked for the 4 hour maximum.

When school is not in session, and during vacations (school must be closed for the entire calendar week), minors under 18 generally may not work more than 8 hours a day, 6 days a week; minors 14 and 15 may not work more than 40 hours a week and 16 and 17 year-olds may not work more than 48 hours a week.

When a minor is employed in two or more establishments in the same day or week, the total time of employment may not exceed the daily or weekly allowance for a single establishment.

#### NIGHT RESTRICTIONS FOR MINORS AGE 16-17

Minors 16 and 17 years old may not work between midnight and 6 a.m. when school is not in session (vacation). They may work after 10 p.m. up to midnight during the school year only with the written consent of a parent and a certificate of good academic standing from their school. Parental Consent Forms may be obtained by an employer from the Division of Labor Standards office in your area. The Certificate of Satisfactory Academic Standing is issued by the school the minor attends.

### C. Minors age 16-17 Not Enrolled in School

Minors 16 and 17 years old that are not enrolled in a daytime school when school is in session may not work in any occupation (except farm work and selling or distributing newspapers):

- more than 8 hours a day
- more than 6 days per week
- more than 48 hours total per week

#### NIGHT RESTRICTIONS FOR MINORS AGE 16-17 NOT ENROLLED IN SCHOOL

Minors 16 and 17 years old may not work between midnight and 6 a.m.

## 5. Employment Certificates and Permits-

An employment certificate or permit is required for minors under 18 before they may begin work. High school graduates, minors who work for their parents, and minors who do industrial homework are included in this group.

***Exception:*** *Babysitters are not required to have an employment certificate or permit.*

### A. Types of Employment Certificates and Permits

- A Student Non-factory Employment Certificate (AT-18, blue paper)-
  Is issued to a minor 14 or 15 years old for permitted work in any trade, business, or service, but not for work in a factory workroom or for work involving use of dangerous materials or chemical processes.
- A Student General Employment Certificate (AT-19, green paper)-
  Is issued to a minor 16 or 17 years old who is enrolled in school. It is valid for work in a factory or any other trade, business, or service, but not valid for hazardous employment such as operating certain power-driven machines, construction work, or for work as a helper on a motor vehicle.
- A Full-Time Employment Certificate (AT-20, salmon paper)-
  Is issued to a minor 16 or 17 years old who is not enrolled in school, or is leaving school for full-time employment. It is valid for work in a factory or any other trade, business, or service but not valid for hazardous employment such as operating certain power-driven machines, construction work, or for work as a helper on a motor vehicle.

### B. Obtaining Employment Certificates and Permits

Minors can obtain employment certificates or permits from the school they attend or from the superintendent of schools in that area. The paperwork required includes:

- Written permission from a parent to work. (There are exceptions for minors considered to be emancipated by school authorities. An emancipated minor does not need their parents' permission to work. All other requirements pertaining to minors such as hours of employment, do apply).
- Proof of age, either a birth certificate or some other document at least two years old that satisfies the officer issuing the certificate.
- A certificate of physical fitness to assure that the young person is in sound health and that the work will not impair his/her physical condition. School medical doctors or physicians designated by the Department of Health give physical examinations. Otherwise minors may obtain a certificate of physical fitness from their own doctor. Minors from neighboring states who seek work in New York can use a certificate issued by a physician in their home state. Physicians who find that a youth age 14 to 18 is not physically fit for some occupations but may engage safely in other types of work, can issue a certificate of limited physical fitness.

For youths to obtain a full-time employment certificate, their parent or guardian must appear in person before the school authorities to give consent. (High school graduates can use written consent.) In addition, youths must provide proof of age, a certificate of physical fitness, and a schooling record. In New York City and Buffalo, a 16-year-old minor who is leaving school must have a pledge of employment signed by the prospective employer that shows the number of work-hours per day, days per week, and the nature of work to be done.

**Note:** *This excerpt of the rules governing the employment of minors has been taken from the New York State Department of Labor's Web site and New York State Labor Law.*

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# LEGALLY-EXEMPT IN-HOME CHILD CARE PROVIDER AGREEMENT FORM

This form must be completed whenever legally-exempt in-home care is provided.

## 1. Parent Certification

I understand that I can choose who will provide child care for my child.

I understand that if I choose someone to come into my home to provide child care, that I am the sole employer of this person.

I understand that as the employer, I am responsible for paying minimum wage and benefits to my employee and I may have other responsibilities to my employee.

I understand that it is my obligation to find out what I am responsible for as an employer and make sure I am doing what is required of me as an employer, including but not limited to paying all applicable Federal and State employment taxes required to be paid by me as an employer.

I understand that any child care benefit for which I am eligible may only cover a portion of my child care costs.

I understand that I am responsible for any child care costs that my child care benefit does not cover.

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| PARENT/CARETAKER SIGNATURE: | |

## 2. In-Home Provider Certification

I have been hired by _____ to provide child care in
(NAME OF PARENT/CARETAKER)

_____ home. My work schedule and wages are determined by
(NAME OF PARENT/CARETAKER)

_____, who is my employer. I understand that as my employer, it is
(NAME OF PARENT/CARETAKER)

_____'s responsibility to pay my wages, benefits, and all applicable
(NAME OF PARENT/CARETAKER)

Federal and State employment taxes required to be paid by my employer.

I understand and acknowledge that I am not an employee of _____

County Department of Social Services. I further understand that child care payments that I receive directly or indirectly for providing child care will not make me an employee of that county.

By signing this form, the parent and provider agree to all of the requirements listed above. No payment will be made unless the parent and the provider sign this form.

| PROVIDER SIGNATURE: | DATE: |
|---|---|
| PROVIDER NAME (PRINT): | |

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# PARENTAL RESPONSIBILITIES WHEN EMPLOYING A LEGALLY-EXEMPT IN-HOME CHILD CARE PROVIDER

Dear Parent/Caretaker,

When you choose to use an in-home child care provider, you are regarded as an employer and therefore you must meet the requirements for each of the following. Minimum wage and other benefit levels are subject to change. You must check with the New York State Department of Labor to make sure that you meet all of the current requirements.

## 1. Minimum Wage Requirement

When you have someone care for your child(ren) in your home, you must pay your in-home child care provider no less than minimum wage. The New York State minimum wage was $7.25 per hour as of August 2010. It is your responsibility to keep informed of the current minimum wage and you may do so by contacting the New York State Department of Labor. Any increase in the federal minimum wage above the state rate will result in an increase to the state's minimum wage. For more information, contact the New York State Department of Labor or visit their website at http://www.labor.ny.gov/

## 2. Social Security Taxes (FICA)

You, as the employer of an in-home child care provider, are responsible for reporting and paying FICA each calendar quarter. FICA does not apply to wages that you pay your own children under 21 years of age. As an employer, you must withhold a percentage of the in-home child care provider's earnings and you must also contribute a matching amount for FICA which includes a portion for Social Security and a portion for Medicare. You may get help determining the appropriate amounts that need to be withheld by contacting the Internal Revenue Service. For more information on FICA rate, forms, filing procedures, and general assistance, contact the Internal Revenue Service at 1-800-829-1040.

## 3. Federal Unemployment Tax (FUTA)

As an employer, you are required to make FUTA payments if you pay your in-home child care provider in cash wages in any calendar quarter. You should contact the Internal Revenue Service for the dollar amount of cash wages which require FUTA payments. This tax must be paid by you as the employer and cannot be deducted from your in-home child care provider's wages. You must file a Form 940 or Form 940-EZ at the end of the year. For more information on the FUTA rate, forms, filing procedures and general assistance, you may contact the nearest Internal Revenue Service (IRS) office.

**4. NYS Unemployment Insurance**

If you pay your in-home child care provider a total of $500 or more in a calendar quarter, then you are required to pay New York State unemployment insurance (UI) taxes. The wages need not to be paid to any one employee to make you liable to pay UI taxes. If you have paid cash wages of at least $500 in total to one or more in-home child care providers in a calendar quarter, you are required to pay the tax. For information on how to register and for computation of your UI tax rate as an employer, contact the New York State Department of Labor, Unemployment Insurance Division, W.A. Harriman Campus, Building 12, Albany, New York, 12240 or visit their website at http://www.labor.ny.gov/

**5. New York State Workers' Compensation**

When your in-home child care provider works 40 or more hours per week, you are responsible for providing Workers' Compensation Insurance and Disability Benefit Insurance coverage. This requirement does not apply to your own children who are under the age of 21. You may not charge any part of the cost of this insurance to your in-home child care provider. This insurance may be purchased from any private company licensed to write such coverage in New York State or from the State Insurance Fund, a State agency. For more information, contact the Worker's Compensation Board at 1-877-632-4996.

You may request that the local social services district add the cost of these benefits to the rate charged by your in-home child care provider in order to calculate the full cost of your child care. You will need to inform the Local Social Services District how much your in-home child care provider charges you and how much additional you are paying to cover the costs of the benefits. The Local Social Services District may then be able to include all or some portion of these benefits in your child care subsidy, if the total amount is below the applicable market rate. The Local Social Services District cannot pay more than the child care market rate. You are responsible for paying your in-home child care provider the difference between the total cost of care and what the Local Social Services District can pay.

**OCFS-LDSS-4699.3** (7/2006)

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

# LEGALLY EXEMPT CHILD CARE PROVIDER TRAINING RECORD FORM

*Complete and return this form to the Enrollment Agency.*

Child Care providers who have completed 10 or more hours of training in the areas listed below may be eligible to receive an enhanced reimbursement rate once verified by the Enrollment Agency.

- Principles of childhood development: focusing on the developmental stages of the age groups for which your program provides care;
- Child care program development;
- Nutrition and health needs of infants and children, which may include the administration of medication;
- Shaken baby syndrome: Education and information on the identification, diagnosis and prevention.
- Child abuse and maltreatment: Identification and prevention;
- Child abuse and maltreatment: Statutes and regulations;
- Safety and security procedures;
- Business record maintenance and management; or
- Statutes and regulations pertaining to child day care.

| PROVIDER NAME: | ENROLLMENT ID NUMBER: | SOCIAL SECURITY NUMBER: |
|---|---|---|
| | | |

Please list any child care training you have taken within the past 12 months, and attach documentation, such as a training certificate.

| | | |
|---|---|---|
| **1** | TRAINING TOPIC: | DATE COMPLETED: |
| | PRESENTING AGENCY: | NUMBER OF TRAINING HOURS: |
| | VERIFIED (FOR ENROLLMENT AGENCY USE ONLY): | |
| **2** | TRAINING TOPIC: | DATE COMPLETED: |
| | PRESENTING AGENCY: | NUMBER OF TRAINING HOURS: |
| | VERIFIED (FOR ENROLLMENT AGENCY USE ONLY): | |
| **3** | TRAINING TOPIC: | DATE COMPLETED: |
| | PRESENTING AGENCY: | NUMBER OF TRAINING HOURS: |
| | VERIFIED (FOR ENROLLMENT AGENCY USE ONLY): | |
| **4** | TRAINING TOPIC: | DATE COMPLETED: |
| | PRESENTING AGENCY: | NUMBER OF TRAINING HOURS: |
| | VERIFIED (FOR ENROLLMENT AGENCY USE ONLY): | |

**NEW YORK STATE**
**OFFICE OF CHILDREN AND FAMILY SERVICES**

# HISTORY OF CRIMINAL CONVICTIONS AND PARENTAL ACKNOWLEDGMENT 18 NYCRR, 415.4(F)(7)(I)

Applies to the child care provider, employees, volunteers, and, for Legally-Exempt Family Child Care, household members 18 years of age or older. Use one history form per person. Attach additional pages if necessary.

Name of Child Care Provider: _____

Name of Individual with Criminal Conviction: _____

Specify Crime(s) Name and Penal Law/Code: _____

Disposition Date(s) and Penalties Imposed: _____

Description(s):

Other Relevant Information:

I attest the above information is a true and accurate summary.

| SIGNATURE OF PERSON WITH CRIMINAL HISTORY- if not the provider | DATE: |
|---|---|
| PROVIDER SIGNATURE | DATE: |

## PARENT ATTESTATION

☐ I understand that the provider I have selected, or, other person named above who may be on the premises of the child care program, has a criminal history described above. I may request that the Enrollment Agency consider this provider for enrollment.

☐ I understand that I have the right to select another provider. If I need help locating another provider, I can request such help from the local child care resource and referral agency and/or the local district. I hereby waive this right and, by signing this form, I am stating that I choose to have this provider care for my child.

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| PRINT PARENT/CARETAKER NAME: | |

**NEW YORK STATE**
**OFFICE OF CHILDREN AND FAMILY SERVICES**

# HISTORY OF DAY CARE ENFORCEMENT AND PARENTAL ACKNOWLEDGMENT

18 NYCRR, 415.4 (F)(8)(III)(A)

*Applies to Child Care Provider only.*

1. Name of Child Care Provider: _____
2. Name of Day Care Program having enforcement action: _____
3. Location: _____
4. Type(s) of Enforcement Action *(Check all that apply):* ☐ Denied ☐ Revoked ☐ Suspended
5. Dates of Enforcement Actions: _____
   - Describe what led to the denial, revocation or suspension of your license/registration to operate a child day care program:
   - Explain the underlying reasons why this occurred:

6. Other Relevant Information:

I attest the above information is a true and accurate summary.

| PROVIDER SIGNATURE | DATE: |
|---|---|

**PARENT ATTESTATION**

☐ I understand that the provider I have selected named above, has a history of daycare enforcement described above. I may request that the Enrollment Agency consider this provider for enrollment.

☐ I understand that I have the right to select another provider. If I need help locating another provider, I can request such help from the local child care resource and referral agency and/or the local district. I hereby waive this right and, by signing this form, I am stating that I choose to have this provider care for my child.

| PARENT/CARETAKER SIGNATURE: | DATE: |
|---|---|
| PRINT PARENT/CARETAKER NAME: | DATE: |

**NEW YORK STATE**
**OFFICE OF CHILDREN AND FAMILY SERVICES**

# HISTORY OF TERMINATION OF PARENTAL RIGHTS AND/OR COURT–ORDERED ARTICLE 10-REMOVAL OF A CHILD AND PARENTAL ACKNOWLEDGMENT 18 NYCRR 415.4 (F)(8)(II)(A)(2)

*Applicable to Child Care Provider only.*

| NAME OF CHILD CARE PROVIDER: | |
|---|---|
| DATE(S) OF REMOVAL/TERMINATION: | NAME OF COURT: |
| NAMES OF CHILDREN INVOLVED: | COUNTY AND STATE: |

**TYPE OF COURT INVOLVEMENT** (*Check all that apply*):

☐ A) Judicial Termination of Parental Rights Under Social Services Law 384-b

1) Legal Reason for Judicial Termination of Parental Rights:

☐ a) Permanent Neglect; ☐ b) Mental Retardation; ☐ c) Severe or Repeated Abuse;

☐ d) Other, _____

☐ B) Court-Ordered Removal of a Child under Family Court Act Article 10 (Child Protective)

1) Judicial Finding:

☐ a) Neglect; ☐ b) Abuse; ☐ c) Severe or Repeated Abuse; ☐ d) No Finding,

2) If no judicial finding, give reason:

☐ a) Article 10 Petition never filed with court; ☐ b) Article 10 Petition withdrawn;

☐ c) Case was dismissed ☐ d) Other, _____

- **Describe** the situation(s) that led to the termination of parental rights and/or the removal of children

- **Explain** the reasons underlying the termination of parental rights and/or the removal of children
  *Attach additional pages if necessary.*

I attest the above information is a true and accurate summary.

| SIGNATURE OF PROVIDER: | DATE: |
|---|---|

**PARENT ATTESTATION**

☐ I understand that the provider named above has a history of termination of parental rights and/or a child protective removal of a child, described above. I may request that the Enrollment Agency consider this provider for enrollment. I understand that I have the right to select another provider. If I need help locating another provider, I can request such help from the local child care resource and referral agency and/or the local district.

☐ I hereby waive this right and, by signing this form, I am stating that I choose to have this provider care for my child.

| SIGNATURE OF PARENT/CARETAKER: | DATE: |
|---|---|
| PRINT PARENT/CARETAKER NAME: | DATE: |

# 03-OCFS-LCM-17
# *Legally-Exempt In-Home Child Care Providers as Employers*

The purpose of 03-OCFS-LCM-17, *In-Home Child Care Providers As Employers,* is to inform local social services districts of a ruling by a Territorial Office of the United States Internal Revenue Service (IRS) that may have widespread employment tax ramifications for local departments of social services.

This page intentionally left blank.

**George E. Pataki**
*Governor*

**NEW YORK STATE**
**OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

**John A. Johnson**
*Commissioner*

# Local Commissioners Memorandum

| | |
|---|---|
| **Transmittal:** | O3-OCFS-LCM-17 |
| **To:** | Local District Commissioners, Directors of Services, Child Care Unit Supervisors, TANF Directors |
| **Issuing Division/Office:** | Development and Prevention Services |
| **Date:** | October 24, 2003 |
| **Subject:** | Legally-Exempt In-Home Child Care Providers as Employees |
| **Contact Person(s):** | Anne Ball (518) 474-3775 or Anne.Ball@dfa.state.ny.us |
| **Attachments:** | A: Agreement for Legally-Exempt In-Home Child Care |
| **Attachment Available On – Line:** | Yes |

## I. Purpose

The purpose of this transmittal is to inform local social services districts of a recent ruling by a Territorial Office of the United States Internal Revenue Service (IRS) that may have widespread employment tax ramifications for local departments of social services. The IRS decision held that a specific local social services district in New York State was responsible for payment of all applicable employment taxes related to one specific legally-exempt in-home child care provider in the district. The IRS considered the local social services district to be that specific provider's third-party employer.

Although the Office of Children and Family Services (OCFS) disagrees with the ruling of the IRS Territorial Office in this matter, we are revising the enrollment process for legally-exempt in-home providers in an effort to strengthen the position of all local social services districts that these providers are not district employees. We have developed a model agreement that sets forth the relationship between the legally-exempt in-home provider and the child's caretaker. It also includes a statement indicating that the provider acknowledges that he or she is not an employee of the district. The agreement must be signed by both parties. Districts must immediately incorporate the attached agreement as part of the enrollment process for legally-exempt in-home child care providers. Districts may also wish to consider a change in the manner in which child care subsidy checks are issued for legally-exempt in-home child care providers. Districts that are issuing checks to the legally-exempt in-home providers on behalf of the parents may want to change their method of payment by issuing the checks to the parents only. This will reinforce the fact that only the parents are responsible for paying the providers.

## II. Background on the IRS decision

A legally-exempt in-home provider, selected by a family receiving a child care subsidy from a local social services district, requested a ruling from a Territorial Office of the IRS regarding the provider's employment status as it related to federal employment tax liability. The IRS held that the local social services district controlled the payment of wages to the provider and, therefore, the district was liable for the related employment taxes on the provider's income. Subsequently, the district requested a reconsideration of the ruling from the IRS and the IRS reaffirmed its decision.

After being made aware of the IRS's decision in this case, OCFS reached out to other states for their experiences regarding this issue. The State of Michigan informed OCFS that it had a similar issue with an IRS ruling. Michigan formerly issued two-party checks in the names of the parents and the providers. Michigan had to change its method of payment and issue the subsidy payments only to the parents to satisfy the IRS and be released from the requirement to pay employer taxes.

## III. Program Implications

In addition to the enrollment form provided in 01-OCFS-LCM-11, the form provided in this LCM as Attachment A, Agreement for Legally-Exempt In-Home Child Care, must be used in all circumstances when a parent has hired a legally-exempt in-home provider. The form provides an acknowledgement by the parent that he/she is the provider's employer. The form also has the provider acknowledge that the parent is his/her employer. Districts must require providers of legally-exempt in-home care currently enrolled with their districts and the parents using such care to sign and return the Agreement. Districts that fail to do so are at greater risk of being considered by the IRS to be the employers of the providers.

While districts continue to have the authority under 18 NYCRR Part 415.5(f)(1) and (2) to issue checks in the parent's name or in the provider's name on behalf of the parent, OCFS recommends that districts consider issuing checks only in the parent's name when a legally-exempt in-home provider provides care. If the method of payment is changed, a Notice of Intent to Change Child Care Benefits (LDSS-4781) must be issued to the recipient. A notice of change in the method of payment where such change does not result in the discontinuance, suspension, reduction or termination of child care services or does not force the recipient to make changes in child care arrangements does not have to be sent ten days in advance of the change. Districts can make such a change and send notification to the parent at the same time.

We hope that these two changes provide a greater level of protection for districts. However, judging by the differences in rulings in Michigan and New York, there does not appear to be any consistency among the IRS territorial offices in determining policy in this area. Therefore, at this time, districts should not assume that either of the above actions is guaranteed to protect against an adverse ruling by the IRS.

*Larry G. Brown s/s*

Larry G. Brown
Deputy Commissioner
Division of Development & Prevention Services

**Attachment A**

## Agreement for Legally-Exempt In-Home Child Care

### A. Parent Certification:

I understand that I can choose who will provide child care for my child.

I understand that if I choose someone to come into my home to provide child care, that I am the sole employer of this person.

I understand that as the employer, I am responsible for paying minimum wage and benefits to my employee and I may have other responsibilities to my employee.

I understand that it is my obligation to find out what I am responsible for as an employer and make sure I am doing what is required of me as an employer, included but not limited to paying all applicable Federal and State employment taxes required to be paid by me as an employer.

I understand that any child care benefit for which I am eligible may only cover a portion of my child care costs.

I understand that I am responsible for any child care costs that my child care benefit does not cover.

### B. In-Home Provider Certification:

I have been hired by _____ to provide child care in _____ home. My
*(parent's name)* *(parent's name)*
work schedule and wages are determined by _____, who is my employer.
*(parent's name)*
I understand that as my employer, it is _____ responsibility to pay my wages,
*(parent's name)*
benefits, and all applicable Federal and State employment taxes required to be paid by my employer.

I understand and acknowledge that I am not an employee of _____ County Department of Social Services. I further understand that child care payments that I receive directly or indirectly for providing child care will not make me an employee of that county.

By signing this form, the parent and provider agree to all of the requirements listed above. No payment will be made unless the parent and the provider sign this form.

Parent or Caretaker Name (print)_____
Parent or Caretaker Signature _____
Date:_____

Provider Name (print)_____
Provider Signature_____
Date:_____